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THE JOURNAL is published quarterly on or about the first day of the months of October, January, April and July, and is sent without charge to Associates. Bank officers may become Associates on payment of an annual fee of \$1.00.

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Contributions are invited upon subjects directly or indirectly connected with banking, or dealing with any phase of the economic development of Canada. To the authors of accepted contributions the Association is in a position to award moderate honoraria.

Communications for the JOURNAL should be addressed as follows:

The Secretary,  
The Canadian Bankers' Association,  
Montreal.

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The Editing Committee having resigned, the Journal is for the present under the editorial management of the Secretary.

*Canadian Banker*

JOURNAL  
OF THE  
CANADIAN BANKERS'  
ASSOCIATION

VOLUME X

CONTAINING

OCTOBER 1902 TO JULY 1903

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63657  
12/11/04

MONTREAL:  
GAZETTE PRINTING COMPANY

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# JOURNAL

## OF THE

# CANADIAN BANKERS' ASSOCIATION

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*OCTOBER—1902*

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### EDITORIAL NOTES

The announcement of the retirement of Mr. J. H. Plummer from the position of Assistant General Manager of the Canadian Bank of Commerce is of interest to all members and associates of the Bankers' Association, not only because of the important position which he has held for many years in one of our leading banks, but also because of the valuable services he has rendered to the Association in many ways, more particularly as Chairman of the Editing Committee of this Journal.

**Retirement  
of Mr. J. H.  
Plummer.**

Mr. Plummer's banking career began in 1866, when he entered the branch of the Bank of Montreal at Toronto, which was at that time under the management of Mr. Archibald Greer. In the following year, when the Canadian Bank of Commerce was organized with Mr. Greer as cashier, Mr. Plummer was the first member of the staff of the bank selected by Mr. Greer. From that time until the year 1878, Mr. Plummer was in the service of that bank, in the course of

which he filled many important positions, having been Manager at Barrie, Brantford and Ottawa respectively, and also Inspector of the bank.

For a few years thereafter he was engaged in the lumber and railway business in Michigan, but returned to Canada in 1882, and accepted the position of Assistant General Manager of the Merchants Bank of Canada, at that time under the management of Mr. George Hague.

When Mr. B. E. Walker was appointed General Manager of the Canadian Bank of Commerce in 1886, he asked his old friend Mr. Plummer to be associated with him as Assistant General Manager, and since that date Mr. Plummer has filled with marked ability the office which he now resigns.

This brief record embraces a period of 35 years filled with strenuous work. Few men combine prompt and sound judgment with that power of concentration and of rapid and intense method of working which were characteristic of Mr. Plummer. His zeal for the success of the bank with which he was connected, his thorough familiarity with all the ramifications of their large business, and his intimate knowledge of all the members of the staff, made his services of inestimable value to that institution, and it is gratifying to know that the president and directors of the bank recognized and thoroughly appreciated his worth.

The members of the Bankers' Association found in him a most valued colleague. In all matters pertaining to the Association's welfare he took a deep interest, and all his confreres bear testimony to the clearness of his perception and the wisdom of his counsel in relation to highly important subjects that engaged the attention of the Association.

As Chairman of the Editing Committee he has rendered most valuable service, and it is not too much to say that to him is chiefly due the success of this publication and the instructive character of its articles. Probably no department of the Journal has proved so practically useful and helpful to the associates as the "Questions of Practical Interest." These questions received from Mr. Plummer the most careful consideration, and although legal points were discussed by him with the learned counsel of the Association, and the final preparation of the answers was shared in by other members

of the Editing Committee, yet to Mr. Plummer the credit attaching to these answers is mainly due.

Mr. Plummer is to be congratulated on being able to retire from active duties while still in the prime of life, and may naturally look forward to many years of enjoyment and usefulness. We are sure that the entire banking fraternity experience sincere regret at parting with so brilliant a colleague, and we can assure him that in retiring from his high position and from the duties he has discharged with such eminent success he has the profound respect and hearty good wishes of all his friends in the Canadian banks, and we express on their behalf the hope that his life may long be spared to enjoy a well-earned rest from the cares and labors incident to a banker's life.

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At the recent annual convention of the Wisconsin Bankers' Association, that body placed itself on record as opposing branch banking. Of course, our banking brethren of the great West must have faith in their "Declaration of Principles," seeing that the same was adopted by a unanimous vote. The said "declaration" attributes the prosperity of the United States to "*the excellence of its financial system, the stability of its financial institutions, and the unequivocal adoption of the gold standard.*" Among the many things said by the Wisconsin bankers in disapproval of the branch banking system, we cannot refrain from quoting the remarks of Mr. Chapman, of Minneapolis. This gentleman, in referring to the results of an investigation into branch banking made by the Minnesota Bankers' Association in Canada, said that a prominent merchant of Winnipeg had told him that the prosperity and progress made by the United States was due to its independent banking system. This statement is reported, in the official account of the proceedings, to have caused a round of applause. The "prominent merchant of Winnipeg" who is credited with the authorship of this beautiful bit of blarney probably never dreamed that his opinion would be advanced as one of the reasons why the Wisconsin Bankers' Association should unanimously condemn the branch banking system.

A Bit of  
Blarney.

One of the most important and serious problems now before the people of the United States is the question of banking reform. Some years ago, one of the leading financiers of the country, Mr. Lyman Gage, referring to the known weakness of the American banking system, expressed this opinion of the situation:

"It is a strange anomaly that while in nearly every other department of life improvement is the indispensable rule, in the great field of banking, finance and exchange, we go on with an indifferent regard to the handicap imposed by defective methods, and dismiss with little consideration suggestions which, if adopted, would advance society and business affairs in the great economic field of industry and exchange."

Since Mr. Gage gave utterance to his opinion upon this vital question of currency and banking reform, Mr. I. H. Walker, a distinguished member of the Washington Committee on Banking and Currency, has also talked to his countrymen in the language of truth. This is his opinion:

"In every department of public and private enterprise, except banking, the ways and means of accomplishing beneficial results, simply, speedily and economically have most enormously developed and improved to their very highest efficiency. This country has taken the lead in all such things, but it is a singular fact and one exceedingly mortifying to our pride that its Treasury and banking system still remains in the crude unscientific and wasteful condition into which it fell forty years ago. Mark the word! The men in this country, whose opinions on financial questions are known to be of value, are practically unanimous in condemning this system, and the highest authorities of Europe are amazed that we should tolerate for a single day a financial system so wasteful of resources and so threatening to stable economic conditions."

But all we can gather from the proceedings at the recent conventions of our banking brethren across the border does not point to any early change in their system. The mere suggestion of the adoption of branch banking has led to heated discussions, usually terminating in thorough condemnation of the proposal. The banking question, in fact, is viewed by our

neighbours not from a broad national standpoint, but from the narrow ledge of local or individual policy.

It is not surprising that so much of misconception and doubt about the branch-bank system prevails, when we find in the House of Representatives at Washington a manifest desire on the part of many of the members to defeat by any and every means the advocates of practical reform.

However, it is refreshing to receive evidence, every now and then, that the champions of change and progress are not daunted by defeat. In the July number of "The Chicago Banker Magazine," a Mr. Herbert Winslow, writing from Washington, thus tells the truth about the Canadian banking system :—

"Now that the Fowler Bill has practically been thrown overboard by the House of Representatives many consider that the branch-bank idea has been finally laid on the shelf for some years to come. A great deal has been said within the past two weeks concerning the speech made by Representative Powers of Maine concerning the working of the Canadian branch-bank system across the border not very far from the confines of his own district. In that region, Mr. Powers urged, the experience with the branch-bank system has been shown that instead of lowering and equalizing rates of interest it so worked that rates of interest were really higher than those in Maine and were no less variable. This statement of Mr. Powers has been accepted as gospel by many Representatives who are congenital opponents of branch banking. They do not hesitate to say that this is a case where experience certified to by a man of known standing and reliability conclusively proves the falsity of the statements customarily made concerning the happy effect of branch banks upon rates of discount.

Just prior to the last conference on the Fowler Bill Hon. E. J. Hill of Connecticut undertook an investigation into the exact working of the Canadian branch-bank system in regard to this very point. By the courtesy of Dr. David J. Hill of the State Department, who took a vigorous and intelligent interest in getting at the real truth, the State Department sent out telegrams to the United States consuls and commercial agents located at various points in Canada asking them to state the average rate of discount on good commercial paper prevailing in the community where they were located at the time the telegrams were received (morning of June 9, 1902). The results obtained are of great interest and have an important bearing on the statement of Mr. Powers which has been so very

generally used by the opponents of branch banking. These results may be tabulated as follows :

CANADIAN RATES OF INTEREST	
Place.	Per Cent.
St. John's, N. F. ....	6
Charlottetown, P. E. I. ....	6½
Sydney, C. B. ....	6
Halifax, N. S. ....	6
Windsor, N. S. ....	6
Yarmouth, N. S. ....	6
St. John, N. B. ....	6
Woodstock, N. B. ....	6
Moncton, N. B. ....	6
St. Stephen, N. B. ....	6
Campbellton, N. B. ....	6
Ottawa, Ont. ....	6
Toronto, Ont. ....	6 a6½
London, Ont. ....	5½ a6
Guelph, Ont. ....	6
St. Thomas, Ont. ....	6
Niagara Falls, Ont. ....	5 a7
Port Sarnia, Ont. ....	6
Belleville, Ont. ....	6
Kingston, Ont. ....	6
Hamilton, Ont. ....	6
Prescott, Ont. ....	6
Orilla, Ont. ....	6
Port Hope, Ont. ....	6
Amherstburg, Ont. ....	6 a7
Stratford, Ont. ....	6 a7
Chatham, Ont. ....	7
Collingswood, Ont. ....	6½
Cornwall, Ont. ....	7
Wallaceburg, Ont. ....	6 a6½
Goderich, Ont. ....	6 a7
Windsor, Ont. ....	6
Port Rowan, Ont. ....	7
Sault Ste. Marie, Ont. ....	7 a7½
Montreal, Que. ....	5 a6
Quebec ....	5 a7
St. Hyacinthe, Que. ....	6 a7
Sherbrooke, Que. ....	7
St. Johns, Que. ....	7
Coaticook, Que. ....	6½
Three Rivers, Que. ....	6 a7
Bedford, Que. ....	6 a7
Levis, Que. ....	6 a7
Rimouski, Que. ....	7
Gaspé, Que. ....	8
Victoria, B. C. ....	6
Vancouver, B. C. ....	6
Winnipeg, Man. ....	6

It thus appears that of the 48 places from which returns have thus been obtained 23, or about half, report a flat rate of interest amounting to six per cent., 19 report rates varying from six to seven per cent., or seven flat, two report rates definitely below six per cent., but not below five in any case, while two report rates that vary between five and seven per cent., two are definitely above seven per cent. It should be noted that the minimum rate thus indicated is five and the maximum seven, with two exceptions, in one of which the rate rises as high as eight. With this showing should be contrasted the returns obtained by Representative Fowler and printed by him in his report of April 5, 1902, on the Fowler Bill (after statistics furnished by the Comptroller of the Currency). While it must be confessed that these statistics are not absolutely comparable with those just cited for Canada, since they are not taken for precisely the same date, it is also true that they are strictly representative of the state of affairs throughout the United States under normal conditions. How little the case as it really exists in some parts of our country is actually realized by Representatives of a certain type may be seen from the statement made by one of them at the most recent currency caucus. It had been remarked that, according to returns furnished by the Comptroller, the average rate of discount in Oklahoma rose as high as 16.3 per cent. at State banks. This remark was indignantly denied by one gentleman, who expressed a doubt as to whether there was really any place in the United States where interest rates ran up so high. He must have been considerably surprised when another Representative at once arose and stated emphatically that the prevailing rate of interest in his own district was 16 per cent., as he himself knew from unfortunate experience. The Canadian statistics as contrasted with those furnished by Representative Fowler show a marvellous difference in the regularity of interest rates prevailing in Canada and in the United States respectively. This is a difference which is due to the different capacities of the two systems for equalizing banking capital. It is useless to attempt to blink this fact."

We hope to hear more of such plain and truthful talk from our American friends upon a subject about which too few particulars have flitted across the border.

## IS THE STUDY OF POLITICAL ECONOMY HELPFUL TO BANKERS' IN THEIR DAILY OCCUPATION?

---

BY A. W. FLUX

THE proverbial cobbler's opinion that "there is nothing like leather" may perhaps occur to some of those who glance at the title of this paper and the name of the writer. I hope, however, to show, to those who are patient enough to read the following pages, that when I answer "yes" to the question which serves as my title, the answer is not simply inspired by prejudice in favour of that branch of study which has specially attracted myself. In fact, the calling of a banker is one in which economic study finds peculiarly direct application, just as, conversely, in the list of eminent contributors to economic knowledge, a place of peculiar prominence is occupied by the name of a banker, Ricardo, and with his name we may couple that of another English writer of conspicuous ability, Bagehot, also a banker, besides others less generally known than these two.

The names I have mentioned are those of men who wrote soundly on economic subjects because they were capable bankers, with a sound knowledge of business. Had they been less capable as business men they would have been less worth attention as economists. The study of economic principles is no substitute for native capacity in qualifying a man to do well as a banker, but it is admirably adapted to develop and train the faculties which make for success in that important calling. The reasons for this are not far to seek. They are supplied by a consideration of the relation of a banker's work to the trading community on the one hand, and the nature of the topics which occupy the attention of the student of economics on the other.

The separation of the making of goods from their exchange is becoming more and more marked in the modern world. The efficient organisation of exchange is of at least co-ordinate importance with the efficient organisation of production itself.



And at every point banks touch and influence the mercantile organisation, which is concerned in the exchanging, the buying and selling, of goods. It may be perfectly true that a great part of the work of a bank is purely routine, almost mechanical, work, but the same is true of other branches of business and of manufacture. Yet this does not obviate the necessity for knowledge and a trained intelligence in banking, for such routine work does not exhaust the demand made on the banker. All who aspire to be put in charge of work which demands the use of judgment, discretion, knowledge of affairs, intelligence, will not rest satisfied with being able to do the more mechanical office work efficiently. In the highest positions, one might venture to say that not many kinds of knowledge come amiss. Yet a knowledge of men is of greater importance than most of the knowledge that is derived or derivable from books. I set this down in order to avoid the risk of misunderstanding. There are other things which a banker needs to know besides those which occupy the attention of the student of Political Economy. But though those other things may be many and important, this does not amount to asserting that very substantial help in his calling is not to be derived by the banker from attention to economic principles.

Perhaps the most apparently obvious feature of a banker's work to the casual observer is the fact that he is a dealer in money and in credit. Is it not, then, obviously a helpful thing to him to understand the place of money in the work of the world? From time to time proposals are made to revolutionise the business world and to alleviate all its distresses by operations connected with the issue of money. Who more than a banker needs to be able to criticise these proposals effectively and to understand the fallacies which underlie most of them? The comparison of the experience of different countries and different ages in this respect will provide material for a demonstration of what system is best adapted to each particular community, and what changes, if any, would be beneficial to that community. But mere comparison of different methods will not suffice without a study of the principles on which the arrangements of different countries are based, and a knowledge that this or that arrangement has been mischievous or a failure will need to be supplemented by a knowledge of why such an outcome has

resulted. Here then is one important corner of Political Economy, the study of which may be helpful to a banker, namely, that which deals with money, by no means a small or unimportant part of economic theory.

Reference to money and to mischievous results of bad monetary arrangements leads one's thoughts naturally in the direction of commercial and banking crises. It is not long since the failure of the Leipzig bank afforded an illustration of the results of bad banking methods, and was an important contributory cause of a serious shock to industry throughout the German Empire. Fortunately, some of the worst results which have been produced in former times by similar causes have been avoided on this occasion. Other, and in some senses more striking, examples of financial disturbance of great importance to banks and, largely through them, to the entire commercial and industrial fabric, are afforded by the events of 1893 in New York and the United States generally; by the Baring collapse of a dozen years ago, when, as it seems, widespread bankruptcy was only avoided by the capable manner in which the then Governor of the Bank of England, the recently deceased Mr. Lidderdale, handled the strained situation; and by other occasions in the more distant past. If the precise nature of the disease from which the commercial world is suffering on such occasions is not known, the manner in which its worst results may be averted must be also unknown. Bankers can do a great deal on such occasions to avert disaster, but such action must be based on knowledge, and some essential parts of that knowledge form part of the subject matter of Political Economy.

Not a little of the funds at the disposal of banks is used in financing the import and export trade of the country, and in connection therewith the making of payments to and receiving payments from distant and foreign countries comes to form part of a banker's business. It should not be difficult to recognise that it is important for him to understand the why and wherefore of the fluctuations of foreign exchange, and the international movements of bullion. There are certain signs of the financial weather which can be read well enough by any experienced business man, just as it requires no very abstruse knowledge to read off the level of the mercury in a barometer. Yet it ought, I think, to be clear that the banker who can see behind

these indications to their hidden causes is in a better position to act rightly than he who works from a kind of "rule of thumb." An inadequate understanding of the principles and facts of foreign exchange may, and in some cases does, close an avenue of profitable investment, or at any rate one which others find satisfactorily profitable.

The changes which are taking place in the ways in which the work of the world is carried on must necessitate some adaptation of old-fashioned and well-established methods of conducting banking business to suit them. The problems which the banker has to handle have not all been solved repeatedly in the past, though most of them, possibly all, have been solved in principle. Even if the latter have been the case, the application of the old and known principles to new circumstances is often no simple matter. It is helped by a thorough analysis of the bases of the principles to be applied, and by a correspondingly thorough knowledge, as far as that is possible, of the essential features of the new conditions to which the principles are to be applied. The formation of so many and so great industrial and financial combinations as have been a notable feature of recent history cannot but bring new banking problems to the front. Those men will be best able to handle them who possess a great business capacity combined with the knowledge which is afforded by a careful study of the principles which govern the relation of the different parts of the industrial and commercial world to one another, that is to say, the principles of economic science.

In a somewhat less direct and obvious way the study of the wages question and the relations of employer and employed, and also the study of problems connected with state control of industry and the means of raising public revenues have an important bearing on some phases of a banker's work, and are calculated to make him a better citizen and a more intelligent observer of the world around him, even if not in more direct fashion to make him a better banker. I have preferred, however, to refer only to some of the parts of economic science whose bearing on the work of a banker is more direct and obvious. These are, in addition, some of the most interesting chapters of economics, and in them are afforded some of the most effective illustrations of the working of important principles whose importance is not confined to this department of economics.

It may be worth while, too, to point out to those who would be disposed not to set a very high value on the opinion of an outsider that, under the auspices of leading and experienced bankers, both in England and in the United States, strong encouragement is now steadily offered to young men to equip themselves with knowledge such as may fit them to succeed to the leading positions in the near future. Not once or twice have I heard general managers lament over the scarcity of really competent young men to fill posts of responsibility. To help in overcoming the difficulty, systematic study on the part of young men engaged in banks is, as I have just said, encouraged. The Institute of Bankers of London, England, has for a good many years held examinations for bank clerks, and several of the leading banks give not a little weight to success in working for these examinations when considering a man's qualifications for advancement. The Institute does what it can to secure that the requisite instruction in the subjects of examination shall be available, and otherwise to encourage the study of their profession by employees in banks. In the larger provincial cities of England, such as Liverpool and Manchester, systematic efforts to the same end in co-operation with the London Institute have been made and are being steadily extended. In the United States we find the American Bankers' Association is sufficiently convinced of the need for and usefulness of such educational work that it has made arrangements to subsidise an organisation for carrying on correspondence classes for bank clerks to the extent of \$10,000 a year. In the curricula of these classes, as in the schedule of subjects required for the certificates of the London Institute of Bankers, we find a prominent place assigned to Political Economy. Thus the value of this study to a banker is recognised from within the ranks of leading bankers, as well as assured by the consideration of what it includes, and the close relation of the latter to the problems which the practical banker has to solve.

A man may be a good economist and not a good banker, he may be a good banker and not a good economist, but a man who has the material in him for making a good banker is likely to turn out a better banker if he study the economic principles which lie at the base of much banking practice.

## DEMAND NOTES AS "CONTINUING SECURITIES"

BY CHARLES M. HOLT, LL.D., OF THE MONTREAL BAR

A demand note must be presented for payment within a reasonable time in order to bind an indorser. This is the general rule. If, however, the indorser's assent has been given to the negotiation of the note as a "continuing security," it need not be presented for payment so long as it is held as such security.<sup>1</sup> The question as to when a note has been negotiated as a "continuing security" is thus an interesting and important one. For its solution we must look first to our own Bills of Exchange Act as interpreted by our Canadian courts, then to the common law of England and law merchant and to the sections of, and decisions based upon, the Imperial Bills of Exchange Act; and not in Quebec to the French law or in the other provinces to the law of England at varying dates.<sup>2</sup>

It may, consequently, be well to make a brief review of the history of our Canadian Bills of Exchange Act which has, as amended and after much opposition and hard fighting, successfully introduced the general principle of uniformity throughout the different provinces of the Dominion.

The Act was first introduced by the Minister of Justice in the House of Commons in the sessions of 1889 in the following terms:—"The object of this bill is to render uniform in almost every particular the laws throughout the Dominion with respect to these contracts. The law under this bill will be uniform in every particular except as regards the statutory holidays, in respect of which special provision has to be made as regards the Province of Quebec. I may say that the bill is principally the codification of the existing law relating to bills, cheques and promissory notes, and that the changes which are made in our

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<sup>1</sup> Bills of Exchange Act, sec. 85.

<sup>2</sup> 54-55 Vic., cap. 17, sec. 8.

law on these subjects are in the direction of making it uniform with the English statute law."<sup>1</sup>

When it was first introduced in the House of Commons, the bill was almost an exact transcription of the Imperial Bills of Exchange Act, 1882,<sup>2</sup> the full title of which is "An act to codify the law relating to Bills of Exchange, Cheques and Promissory Notes." The only alterations consisted in the substitution of the word "Canada" for the "United Kingdom" and the insertion of the numerous holidays of the provinces in place of the comparatively few holidays in England.

The bill so introduced was not passed in 1889, but was reintroduced in 1890 with a number of modifications. Further changes were made in both Houses of Parliament, principally in the direction of retaining special provisions of law formerly recognized in Canada or in some of the provinces and substituting these in the bill for certain clauses of the Imperial Act which had been embodied in the first draft.

The English Bills of Exchange Act, 1882, was the first instance of the codification by the Imperial Parliament of any portion of the Civil Law. It has now been in force for twenty years, and not a single amendment has been found to be necessary, and this although Mr. Chalmers, who drafted it, has stated that if he had to do it again, he could draft it in better form. The English judges were not disposed to look with approval upon the idea of a code, but the amount of litigation which has arisen under the English Act has been comparatively small. The changes made in the Canadian Bill in its passage through Parliament tended not only to lessen its similarity to the Imperial Act, but some of them interfered with the uniformity of the law throughout the Dominion, which is stated to be its general object. Examples of the former are found in the legislation regarding bills payable at sight and as to payment by banks of demand drafts on them when the indorsement is forged (the Canadian Parliament having refused to enact a provision similar to sec. 60 of the English Act, which relieves the banks from liability for forged indorsements), and of the latter in the special provisions regarding the protest of inland

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<sup>1</sup> Commons Debates, 1889, p. 14.

<sup>2</sup> 45-46 Vic., cap. 61.

bills in Quebec and the retention of the provincial tariff for notarial services.<sup>1</sup>

In the original bill as introduced in the Canadian House of Commons, sec. 97 was the reproduction of sec. 97, sub-sec. 2 of the Imperial Act, and read as follows:—"The rules of the common law of England, including the law merchant, save in so far as they are not consistent with the express provisions of this Act, shall continue to apply to Bills of Exchange, Promissory Notes and Cheques." This section was struck out in the Senate.<sup>2</sup> The Dominion statutes in force at the passing of the act and the provincial statutes on the subject passed prior to Confederation having been practically repealed by sec. 95, recourse would have been had in unprovided cases in the several provinces to the law as there originally introduced in so far as it might be applicable, and where this failed, to the law in the respective provinces which by analogy might serve as a rule in each particular case. Our Bills of Exchange Act is a comparatively complete code of the law upon the subject, but a number of cases are not provided for, such as "aval"; the relation of indorsers *inter se*; the rights and liabilities of parties to bills and notes once the relation of principal and agent or that of principal and surety is established between them; whether the insolvency of the acceptor of a bill or the maker of a note makes these instruments mature or gives the holder any rights. Further, the Act does not treat of the limitation of actions or prescription as affecting bills and notes, but leaves the law of each province to be applied within its bounds.<sup>3</sup>

The absence of any uniform rule for the decision of these cases would, no doubt, have led to considerable diversity in the jurisprudence. The English law was originally introduced in all the provinces except Quebec; but as it was introduced at different dates, the English statutes which were in force in some provinces were not in others. The French Commercial Law in force in Quebec has, however, more in common with that of England than had other branches of the Civil Law. Both were based on the law merchant and upon the usages and cus-

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<sup>1</sup> Chalmers' Digest, 5 Ed., p. 54. Maclaren's Bills, Notes and Cheques, p. 4.

<sup>2</sup> Senate Debates, 1890, p. 467.

<sup>3</sup> Maclaren's Bills, Notes and Cheques, pp. 4 and 18.

toms of merchants who were more cosmopolitan in their ideas than the legislators or judges who framed or settled the laws of these countries. The course of provincial legislation also tended to similarity.<sup>1</sup> The provisions of the successive English statutes on the subject were frequently re-enacted by the provinces, including Lower Canada. Notwithstanding these circumstances, there has been a wider divergence in the decisions of the courts in the different provinces than the similarity of the statute law would have led one to expect. In was no doubt the desire to make the law uniform throughout the Dominion which induced Parliament to restore the clause which had been dropped in the Senate from the Bill in 1890, as explained above.<sup>2</sup>

In considering the question under discussion in the order named above, viz.: first, in the light of the provisions of our own Bills of Exchange Act and the Canadian decisions interpreting it, and then of the provisions of the Imperial Bills of Exchange Act and the English decisions interpreting its sections, and the common law and law merchant, the subject might be divided into two heads. First: where the demand note is not a "continuing security," what is reasonable time for its presentation for payment? Secondly: when may a demand note be considered a "continuing security?"

On the first head the whole tenor of our Canadian Act shows that the question of reasonable time depends on the facts of the particular case, the usage of trade and the circumstances attending the negotiation of the note.<sup>3</sup>

The Canadian Courts have held that where the note is payable with interest, this is an indication that an early presentment was not contemplated.<sup>4</sup> And in a case where a defendant indorsed a demand note for the maker, a friend whom he knew to be bankrupt and the note was not protested until more than three years later, the indorser was not discharged, as he was not injured, but rather benefited by the delay, the maker having paid something on account in the meantime and his circumstances having improved with the delay.<sup>5</sup>

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<sup>1</sup> Maclaren's Bills, Notes and Cheques, p. 5.

<sup>2</sup> *Id.*, p. 6.

<sup>3</sup> Secs. 36, sub-sec. 3; 40, ss. 3; 41 (b); 44, ss. 3; 45, ss. 2 (b); 46; 85, ss. 2.

<sup>4</sup> Commercial Bank vs. Allan, 10 Man. 330 (1894).

<sup>5</sup> Dandurand vs. Routier, 33 L.C.J. 167 (1889).



Thus in estimating reasonable time, the fact that the indorser had been benefited or injured by the delay was taken into account. Although this decision was not based on sec. 85 of our Bills of Exchange Act, as it was rendered before the enactment of the statute, it does not seem to be inconsistent with the terms of the section, which reads as follows: "Where a note payable on demand has been indorsed, it must be presented for payment within a reasonable time of the indorsement; if it is not so presented, the indorser is discharged; if, however, with the assent of the indorser, it has been delivered as a collateral or continuing security, it need not be presented for payment so long as it is held as such security. (2) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade, and the facts of the particular case."

In another case, where the maker was in the employ of the bank and so continued up to his death, which occurred in the interval between the making of the note and the presentation for payment, and where presentation was delayed nearly three years, the Court of Review at Montreal decided that the delay was not reasonable. There was evidence of record in that case that according to local banking usages, demand notes were required to be presented within six months' delay at the latest.<sup>1</sup>

The section of the Imperial Act corresponding to our section 85<sup>2</sup> reads exactly as does our section in so far as regards the question of "reasonable time," though it differs materially regarding the question of "continuing securities," as will be shewn below. The English decisions are in line with those of our Canadian courts, which have followed them in all cases. Lord Cairn's remark that "the time at which payment of a note of this kind is to be demanded and urged upon the maker must be judged of with reference not merely to the circumstances of the maker, but with reference to the convenience of the indorser, against whom the second demand would be made,"<sup>3</sup> has been accepted as good law here.<sup>4</sup>

<sup>1</sup> *Banque du Peuple vs. Denicourt*, R.J.Q., 10 S.C. 423.

<sup>2</sup> *Imperial Act*, sec. 86.

<sup>3</sup> *Chartered Mercantile Bank vs. Dickson*, L.R., 3 Privy Council 574.

<sup>4</sup> *Commercial Bank vs. Allan*, 10 Man. 330.

On the second head: A demand note may be considered a "continuing security" and not to be subject to presentation (a) when it is negotiated in express terms as such, with the express assent of the indorser, (b) when it is so negotiated that taking all the facts attending the negotiation into consideration, the inference is clear that it cannot be other than a "continuing security," and that its negotiation as such has been with the approval of the indorser.

The only section of our Bills of Exchange Act which refers to a note in the nature of a collateral or continuing security is the above-cited section 85. The Act does not require that the delivery as a "continuing security" or the indorser's assent shall be established by a writing, and there can be no doubt that such delivery and assent can be inferred from the circumstances surrounding the transaction.

This has been passed upon in a recent Canadian case.<sup>1</sup> It was there said that it could not be made the subject of a doubt, that in the case of a note payable on demand and transferred in the ordinary course of business for value received, the holder is bound to demand payment and to protest the note within a reasonable time, and that a demand made so long as twenty-seven months after the note had come into the possession of the holder would be considered as having been made too late. In this case, however, the note in question was not indorsed in the ordinary course of business, it was a note given and indorsed to secure an overdrawn balance of the maker's account with the bank, as well as to obtain further advances and the forbearance of the bank for the sums already due by the maker. The note was received and held by the bank as collateral security for overdrawn balances, and as a continuing guarantee for an indefinite period for the payment of such balances. It was not unusual, the court said, for such transactions to be represented by notes payable on demand, and a common promissory note, payable on demand, was often originally intended as a continuing security.

In this case now under discussion it would have been in the power of either party to fix a term to their respective obligations by giving notice to that effect to the other party; but as

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<sup>1</sup> Merchants Bank of Canada & Whitfield, 2 Dorion's Q.B. Reports 158.

time and forbearance towards the maker was the main consideration for giving the security, it would have been against the spirit of the whole transaction and against good faith, if the bank had pressed for payment of this note, immediately on becoming possessed of it, or even within such time, as would, in ordinary cases, be considered within a reasonable delay to present a note payable on demand, the note having been given for the very purpose of preventing the bank from enforcing the payment of its claim against the maker.

The section of the Imperial Act which corresponds to our section 85<sup>1</sup> omits all reference to "continuing securities."

But while these are thus ignored in the English statutory law, the English decisions have affirmed the law in England to be in the main similar to that laid down in our Canadian Act, sec. 85.<sup>2</sup>

There would seem to be this distinction, however, that in England a promissory note payable on demand is naturally treated as a "continuing security,"<sup>3</sup> and they consider there whether, it being a "continuing security" under all the circumstances, the delay in presentment was or was not unreasonable,<sup>4</sup> and "reasonable time" is there, a mixed question of law and fact; and regard must be had to the nature of the instrument as a "continuing security," *e.g.*, ten months may not be an unreasonable time.<sup>5</sup> Our section 85 was intended to reproduce section 86 of the Imperial Act, and to add to it what was considered the common law in England with regard to "continuing securities." As pointed out above, these latter were not referred to in the English Act. In so drafting our section, our legislators do not seem to have fully attained their object. In Canada a "continuing security" does not need presentation as long as it is held as such. In England a "continuing security" must be presented within reasonable time. There is a confusion of terms, but the intent to put our law in accord with the English rule is clear, and our courts have recognized this,

<sup>1</sup> Imperial Act, sec. 86.

<sup>2</sup> Privy Council. *Chartered Mercantile Bank vs. Dickson*, L.R., 3 P.C. 574.

<sup>3</sup> *Brooks vs. Mitchell*, 9 M. & W. 15; *Byles on Bills*, 202.

<sup>4</sup> *Chartered Mercantile Bank vs. Dickson*, L.R., 3 P.C., at p. 579; *Ranchurn Mullick vs. Luchmechund Radakissen*, 9 Moore's P.C. Cases, 46.

<sup>5</sup> *Chambers' Digest of the Laws of Bills of Exchange*, 5th Edition, p. 267.

and accepted the English cases as guides in the interpretation of our section 85.

The American decisions have not been referred to above. They are not binding authorities in this country, but if well reasoned, are always considered with respect by our courts. The law respecting negotiable instruments may be truly declared, in the language of Cicero, to be in a great measure, not the law of a single country only, but of the whole commercial world. (*Non erit lex alia Roomae, alia Athenis, alia nunc, alia post hac, sed apud omnes gentes et omni tempore una eademque lex obtinebit.*) Lord Blackburn, in a Scotch appeal concerning a cheque, lays down a similar rule. "There are," he says, "in some cases differences and peculiarities which by the municipal law of each country are grafted on it, but the general rules of the law merchant are the same in all countries. . . . We constantly in the English courts, upon the question what is the general law, cite Pothier, and we cite Scotch cases, when they happen to be in point; and so in a Scotch case you would cite English decisions, and cite Pothier or any foreign jurist, provided they bore upon the point."<sup>1</sup>

While the above consideration of the statute and case law may be of use in determining when a demand note has or has not been given as a collateral security, after the event, the safe course for banks to follow is to obtain waiver of presentment and protest on such notes or to have it stated in writing upon them that they are held as a "continuing security."

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<sup>1</sup> McLean vs. Clydesdale Bank (1888), 9 App. Cas., at p. 105.

# THE HISTORY OF CANADIAN CURRENCY, BANKING AND EXCHANGE

(CONTINUED)

## LORD SYDENHAM'S MEASURES \*

WITH the advent of Lord Sydenham as Governor General, the union of the two Provinces, and the beginning of responsible government, the new political administration of Canada found it necessary to adopt a regular policy on the more important features of domestic affairs. Men, rather than measures, had been the chief consideration in Canadian politics up to this period. From this time forward measures, rather than men, tended to become the dominant influence in public affairs. Henceforth we find a more or less connected policy, with the gradual formation of definite political parties, and the consequent perfecting of the details of responsible government of the modern British type.

In making the transition from the old to the new system, in overcoming sectional and personal prejudices, and in clearing the ground of the chief causes of bitterness in the past, it was inevitable that a Governor who had the capacity for such work, should have been, for a time at least, his own prime minister. Yet he acted through his ministry, and used

### \* Chief sources :

Journals of the Legislative Assembly of the Province of Canada, 1841.

The Provincial Statutes of Canada, Vol. I.

Memoir of the Life of The Right Honourable Charles Lord Sydenham, G.C.B., London, 1843.

Reminiscences of his Public Life, by Sir Francis Hincks, K.C.M.G., C.B., Montreal, 1884.

*The Examiner*, Toronto, 1840-41.

British Blue Books relating to Canada, 1839-41.

*The Quebec Gazette*, 1840-41.

*The Chronicle and Gazette*, Kingston, 1840-41.

his power to lay the foundation of a mutually dependent and responsible cabinet, whose members should expound and defend the new measures in the Assembly, and command a majority in that house on all important measures.

Having been a British Minister of liberal views, and a leader in financial reforms, Lord Sydenham was, in most respects, admirably fitted to deal with the difficult yet important economic problems of the time in Canada. The most pressing need of the government, apart from political organization, was the reducing of chaos to order in the Provincial finances. Without this reform Canada must have drifted into bankruptcy and repudiation, such as had already overtaken some of the ill-managed States of the American Union.

It was in connection with the reconstruction of the Provincial finances, and the provision of funds for the completion of a systematic plan of public works, that the question of the future of Canadian currency and banking came to be taken up as an integral part of the Government policy. Though in the specific measure which he advocated Lord Sydenham undoubtedly failed more completely than in any other section of his Canadian programme, yet he exerted a strong and lasting influence upon the monetary ideas of the country. There were no very revolutionary changes effected in the Canadian currency, or the system of banking, yet we observe from this time a more uniform and definite policy on the part of the Government. In the provisions of the new and amended charters granted to the banks during the first session of the Union Parliament, we observe a definite recognition of the general principles of currency and banking, and we find in them the leading characteristics of the general Bank Act of the Dominion as we now know it.

In Lord Sydenham's speech at the opening of the first session of the new Legislature, on the 15th of June, 1841, he outlined a comprehensive policy for restoring the financial credit of the Province, and making provision for the systematic development of the resources of the country without infringing on private enterprise. The central feature in this policy was the establishment of an organized system of transportation by opening a navigable water-way from lake Huron to the Gulf, and the perfecting of lateral tributaries, by water and land, with a view to bringing the chief settlements within reach of the outside world.

Apart from his remarkable personal qualifications, the chief influence which Lord Sydenham wielded in the reconstruction of the Canadian system, and in securing the passage of his more important measures, was his authority to promise the assistance of the Home Government in guaranteeing the interest on a loan to the extent of £1,500,000 stg. In the hands of a less wise, or less liberal Governor, this power might have been of the greatest danger to the liberty and prosperity of Canada. But Lord Sydenham was both wise and liberal, and though he utilized every fraction of the power which was entrusted to him, in securing the passage of important measures, to which influential sections of the Canadian people were at the time strongly opposed, yet those measures are now recognized to have been of the greatest assistance in promoting the political liberty and commercial prosperity of the Province. ✓

In his speech he promised to lay before the Legislature a definite plan, including the measures proposed and the means of financing them. It was his intention that the various public works and the financial measures by which they were to be supported, should be taken by the Legislature as one interdependent measure.

On the 20th of August he submitted, in a special message on Public Improvements, a detailed account of the different works proposed, and of the means of financing them. It was in this connection that he introduced his proposal for making the issue of paper money assist the public revenue. ✓

The extra annual revenue required amounted to between £80,000 and £90,000, and among other means of meeting this he outlined a plan for a provincial paper currency redeemable on demand. ✓

A very considerable amount of the capital required might be raised without any charge whatever for interest, by the assumption by the Province of the issue of paper payable on demand, which is now enjoyed by private banks or by individuals, without their being subjected to any charge whatever in return for the power thus granted to them by the state. If that power were resumed to the fullest extent, a capital representing a revenue of not less than £35,000 a year might be provided. But even under such arrangement as would afford great advantages to the various banks at present

issuing paper, as a compensation for their being in future deprived of that power, a revenue of not less than £15,000 or £20,000 might be safely relied on."

In a "Memorandum on the paper currency suggested for Canada," Lord Sydenham explains more fully his currency plans. He points out that the charters of the Lower Canadian banks will expire at the end of the session of 1841, and applications for their renewal were to be considered. Several of the Upper Canadian banks were also applying for expansion of capital. He therefore considered it necessary that the principle upon which the future issue of paper money was to be permitted, should be settled at once.

Either the existing system of freely permitting the banks to supply the paper currency of the country, may be continued, or the Province may reserve to itself the power to provide paper money, and to that end establish a provincial bank of issue. Notwithstanding the numerous safeguards of the public interest insisted upon in the bank charters, yet the country was subject to fluctuations of over-issue and abnormal constriction, which he attributes to over-competition on the part of the banks. Yet it appeared impossible to grant bank charters to certain districts and refuse them to others, so that the country was in danger of falling into the condition of some parts of the United States.

He refers to the fact that in England a stamp duty is levied upon the issues of the provincial banks, as a partial return for the privileges enjoyed by them. If, therefore, independent banks in Canada are to be permitted to issue paper money, as at present, it is but reasonable that they should contribute to the public revenue some portion of their profits. A bank tax, he thinks, might have the effect of restricting the number of banks applying for the privilege of note issue, since they would find it more profitable to confine their operations to the business of discount and deposit alone. However, he thinks the best policy for Canada is to adopt the proposal of a provincial bank of issue.

The plan of the bank and its operations, as well as its relation to the existing banks, are set forth in a draft of the resolutions to be proposed to the House of Assembly, and are as follows :—

1. "That it is expedient that a Provincial Bank of Issue under the management of commissioners, be established by



legislative enactment, to which shall be confined the sole power of issuing paper payable on demand.

2. "That the bank shall issue notes of one dollar and upwards to the extent of £1,000,000 currency, and no more, until otherwise provided for by legislative enactment, except in redemption of its own notes, in exchange for bullion or coin.

3. "That the said issue of £1,000,000 shall be made one-fourth against bullion or coin, and three-fourths against government securities, purchased by or paid in to the bank ; and that the interest arising from all such securities shall be carried to the public account of the province, after deducting the expense of management, and of any payments specially charged by parliament, as hereinafter provided.

4. "That from and after the 1st of March, 1843, it shall not be lawful for any bank or individual to issue any promissory note made payable on demand.

5. "That each of the banks now issuing paper payable on demand throughout the province, shall make a return of the average amount of its circulation of such paper during the years 1840 and 1841, and of the amounts of bullion and coin in its coffers during the same period.

6. "That to every such bank whose charter would be unexpired on the 1st of March, 1843, there be made an allowance by the bank of  $2\frac{1}{2}$  per cent. per annum on the amount of the difference between such circulation and the bullion or coin in its coffers, for the term of years for which such charter shall be unexpired, provided such term exceed ten years ; and if such charters have expired, or have less than five years to run after 1843, then for the term of ten years. Each bank to have deposited government securities approved by the Commissioners, or bullion or coin to the extent of such amount with the bank of issue, having received its notes in exchange.

7. "That the charters of banks now in existence in the Province which expire before the 1st of March, 1843, be renewed, with power to issue paper payable on demand up to that date, when such power shall cease by law ; but that any facility for increase of capital, for suing or being sued, for limited liability of shareholders, etc., be given to such banks for such time as they may desire the same, subject only to such cessation of issue."

If the provincial bank issued notes to the extent of £1,000,000 it would require, Lord Sydenham thinks, to keep a reserve of £250,000 leaving £750,000 at the disposal of the government for public works, and representing an annual saving of interest to the extent of £30,000 to £35,000.

In recounting the benefits to result from such an institution, Lord Sydenham would lead one to suppose that the government would not only have £750,000 of capital to dispose of, but would enjoy a revenue from the note issue as well. This, however, was plainly impossible inasmuch as the notes were not to be used for loan or discount, but were simply to be exchanged for bullion or securities. The government must therefore have chosen between holding the securities for their annual revenue, or selling them and investing their proceeds in public works.

Lord Sydenham further expected, with some reason, that the provincial notes, owing to their security, would circulate to a very large extent in the neighboring States of the American Union, and thus afford a gradually increasing revenue estimated at from £60,000 to £70,000 a year. He firmly expected also, that the government paper would effectually cure the great evils of the currency for some years past, namely, the rapid fluctuation of the paper of the banks between plethora and scarcity. Referring to his plans, in a letter to England after the session had opened, he stated that he was rather doubtful of the success of the provincial bank measure owing to the numerous private interests involved, but if he succeeded he would rejoice more than at any other measure, as it would set a good example to the English people when they came to discuss the bank charter. It embodied the principle, he said, for which he had contended in the Imperial Cabinet in 1833, and which Mr. Loyd (afterwards Lord Overstone) had since so ably advocated in a pamphlet. This letter indicates the main centre of Lord Sydenham's interest in this project. His eye was chiefly on Britain and the discussion of the proposals for the new bank act, which was soon after passed by Sir Robert Peel, and in framing which he was much influenced by Lord Overstone's ideas. Lord Sydenham, in common with most of the political economists of the time, firmly believed that what was a sound economic principle in one country must be so in all countries. He thus overlooked certain practical features in the American banking situation which

must have greatly lessened the benefits which he expected from the issues of the new provincial bank.

In Britain there was an independent and highly stable monetary system, backed by large accumulations of capital. The exchanges having a wide range, though subject to numerous variations, were not liable to extensive fluctuations due to strong single influences having a commanding effect upon the banking capital of the country. Canada, on the contrary, was not only subject to the fluctuations in trade and speculation which took place in the United States, but had as yet many elements of instability in her own financial and trade relations. As a country Canada had but little accumulated capital and almost no securities upon which funds could be realized at short notice. Her trade was scattered, and limited to one or two staples in the way of exports, though of growing variety in imports. The exports, chiefly lumber and grain, were subject, on the one hand, to variations in the foreign market which could not be readily forecast, and, on the other, to variable conditions of climate and season in Canada itself. As so many of the people were still making a start in life, though they were fair customers in certain lines they were very tardy and uncertain payers, and had no realizable reserves. Under such circumstances the circulating medium of the country was in a very unstable condition in domestic affairs, and liable at any time to be called upon to meet the requirements of exchange. The banks, more as the result of their everyday experience than as the outcome of a thorough understanding of the situation, followed the fluctuations of trade and exchange with a close eye, and by a rapid curtailment of their discounts, amounting sometimes almost to a suspension of accommodation, endeavored to protect themselves in times of stringency. Under favorable circumstances, with the stimulus of sharp competition, they expanded their discounts with more or less unwise freedom. The strain ultimately fell upon the mercantile community, many of whom, not being able to distinguish between capricious indifference on the part of the banks towards private interests, and indispensable precautions to protect their solvency, complained loudly of the selfish action of the banks in arbitrarily withholding discounts.

Evidently reasoning from British conditions, Lord Sydenham assumed that there ought to be a very nearly fixed

amount of currency needed to effect the domestic exchanges of Canada. The fact that in actual practice the note issue fluctuated considerably was attributed to the faulty banking system, and not to the normal conditions of Canadian and American trade. He therefore concluded that with the adoption of a uniform paper money of known security, as the basis of the circulation, this fluctuation would be greatly reduced, if not abolished, and the Government might safely use as capital all but one fourth of the average circulation of the country. It was on the same principle that he hoped to enjoy a large free loan from the people of the United States.

But past experience had shown that the paper of his provincial bank, if circulated in the United States, would be collected and returned for redemption in every time of stringency in the American market. The very security of the notes would hasten their return when specie was more needed than currency. The circulation of their notes in the adjoining states was one of the causes of fluctuation as well as of profit for the Canadian banks. Against its dangers they sought to protect themselves by encouraging the systematic over-rating of certain legal tender coins.

Again, even down to the present day in Canada as in the United States, there is a considerable fluctuation in the amount of money required at different seasons of the year, in those districts where the agricultural or lumbering industries prevail, and where the products come upon the market in large quantities at the same time. But in the earlier days of the country this feature was much more marked than at present, though, owing to slower means of transportation, the greater part of the crop of one season was not marketed till the following spring and summer. Water being the chief highway, the spring and summer months were the busiest in Canadian trade, and the volume of bank paper naturally expanded during that period. The movement began in Upper Canada and extended to Lower Canada as the season advanced. The situation is illustrated in the returns furnished by the various banks of the upper Province at the special request of the Committee on Currency and Banking, during the session of 1841. Taking a table of the amount of notes in circulation in the different months of the year, for a number of years, we observe that the Bank of Upper Canada had, in normal years, the largest circulation from February to May, and the Com-

mercial and Gore banks from April to June. The note circulation, however, did not always vary with the discounts, which followed rather the variations in exchange between Upper and Lower Canada, and between America and Britain.

These causes of variation being such as the proposed bank of issue could not affect, that institution would have been liable to be called on, at intervals, for more specie than Lord Sydenham had contemplated. Having no discounts to call in, it would have required to keep on hand large quantities of idle cash at certain seasons, to be prepared for special calls at others. Such funds might be available for temporary use, but the Government required funds for permanent investment in public works.

Lord Sydenham's plan for a provincial bank of issue would doubtless have given greater stability to the circulating medium, but it would have been at the expense of that elasticity of the currency which has been an essential feature of Canadian banking. Under more stable conditions of trade and exchange it has been found possible for the Dominion Government to obtain a considerable loan from the public by the issue of government notes. Yet the Government has wisely left in the hands of the banks the function of enlarging or contracting the circulation of the country, in answer to the varying needs of trade. ✓

Lord Sydenham's fear that his proposed bank of issue might not be acceptable to the country, proved to be well founded. Yet the arguments advanced in opposition to it quite justified his statement that very few in the country understood the nature of the proposal. The most intelligent supporter and critic of the plan was Mr. Francis Hincks, who in his paper *The Examiner* was accustomed to treat the whole question of currency and banking with an insight and breadth of view quite rare in Canada up to that time.

Mr. Hincks first entered the Legislature in 1841, and was soon appointed chairman of the Joint Committee on Currency and Banking. He gave a General support to the financial measures of Lord Sydenham, and in the general financial legislation of the period we trace the decided influence of his views.

In July, 1841, Mr. Hincks passed in review the various proposals then before the country for the supply of paper money. First there was the older plan of a provincial bank of issue, discount and deposit, with the sole right to issue

paper money. This was intended to combine private and public interests, the directors to be appointed by the executive Government, the Legislature, and private stockholders. His criticism of this was that it would be a monopoly of the most objectionable kind, which would either place the bank and the commercial interests of the country at the mercy of the Government or put the Government into the hands of the bank directors. Secondly : others advocated the maintenance and expansion of the present system of chartered banks of issue, and the chartering of new banks in the different districts whenever desired. This was the American system which encouraged the establishment of a great many small local banks, rather than a few large banks with numerous branches. This system, he maintained, as shown in many of the American States, led to weakness, over-issue and violent fluctuations. Thirdly: it was proposed to pass a general banking law and, under its regulations and restrictions, to permit free banking. This he considered a better proposal, but apt to result in the over-issue of bank paper. Fourthly : there was the proposal of the Governor-General, to establish a provincial bank of issue but without otherwise interfering with the general business of banking, which in all other respects would conform to the third proposal for a free banking system. Mr. Hincks favored the last measure, maintaining that the state should reserve to itself the right to issue paper money on the same ground that it reserved the right to issue metallic money.

Thus the seigniorage or revenue on paper money properly belonged to the state. The proposed bank of issue he regarded simply as a kind of paper mint for the conversion of bullion and government securities into a paper money more convenient for circulation. Notwithstanding their natural objections, the banks, he thought, would still enjoy sufficient revenue from their discount and deposit business. But the crucial question was, How could the banks procure the bullion or government securities to give in exchange for the notes of the bank of issue, and at the same time discount as freely for the public as under the old conditions ? Again, even if they could obtain the necessary securities, in order to meet the special demands of the public at special seasons of the year the banks would require to obtain a large amount of govern-

ment paper, which they must regularly return to the provincial bank at other seasons or suffer loss upon it.

In order to bring the measure before the public the committee on banking had prepared a bill for the establishment of the bank of issue. The chief points in which the bill varied from Lord Sydenham's proposed resolutions, already given, were the following. The debts due to the bank were to have the same priority as debts due to the Crown. The notes of the bank, whose form was prescribed, promised payment in the lawful money of the Province of Canada, and were to be redeemed at the principal place of business of the bank. The commissioners were permitted to take government securities, not only from the banks, but directly from the Government itself. The commissioners might also issue notes to the chartered banks as loans to be repaid in coin, bullion, or notes of the bank of issue. The security for such loans might be government debentures, discounted notes, or other sufficient security. One third of the securities held by the bank must be in government bonds, but all issues in excess of £1,000,000 must be entirely in exchange for bullion or coin. Whenever the bullion or coin in reserve fell below one-fourth of the outstanding notes, no other notes should be issued except for coin or bullion. Prescribed returns, exhibiting the financial condition of the bank, were to be made by the commissioners.

A popular objection to the proposed bank, based upon Canadian and American experience within the past few years, was to the effect that it would be an engine of political favoritism and corruption. The reply to this had been that as the bank would do no discount or deposit business, but simply exchange notes for bullion or government securities, it must be as completely free from political bias as the mint itself. However, it was provided in the bill that the Provincial bank might lend its notes to the chartered banks on the security of their discounted notes or other paper approved of by the commissioners. But this was undoubtedly a discounting business, and subject to all its contingencies. This clause indeed was simply a public confession of the lack of elasticity in the original plan of the bank.

The measure came up for debate in the Assembly as the fourth of a series of resolutions dealing with the plan of Provincial improvements. It was as follows :—"Resolved that

it is expedient to aid the revenue of this Province, and to afford facility in obtaining a portion of the money necessary to be raised for the forthcoming works, by the issue of paper, in the name and on account of the Province, payable on demand, so far as this can be effected with a due regard to the public faith, and the interests of the Province." Though the Government leaders endeavored to confine the debate to the resolution only, yet the members insisted in discussing the bill which had been drafted.

Mr. J. S. Cartwright, president of the Commercial Bank and one of the leaders of the conservative wing of the opposition, condemned the proposal as not likely to meet the expectations of the Government as to the revenue to be derived from it. Yet he was certain that should the bill pass, the existing banks would be driven out of business ; at any rate there would be a great curtailment of the accommodation furnished by the banks, owing to their being reduced to the limit of their capital alone in affording discounts. Taking the case of the Commercial Bank, he pointed out that it had a capital of £200,000, a circulation of another £200,000, and deposits of £50,000. It had, therefore, the means of carrying on a business to the extent of £450,000. But without the note issue, which would also cut down the deposits, the bank would have to diminish its business by one half. His argument that the expansion and contraction of the currency was largely due to the necessity of meeting the fluctuating needs of the country, was good enough. But the chief fluctuation complained of centred in the discounts, whose remarkable variations could not be accounted for on the same grounds. For instance, in the first half of the previous year, 1840, we find the following variations from month to month in the amount of discounts of the Commercial Bank. The note circulation is also given, and it will be observed that it bears no proportion to the discounts.

1840.	Notes discounted.	Notes in circulation.
January,	£254,397	£202,570
February,	126,775	217,016
March,	116,064	236,671
April,	129,209	252,462
May,	78,685	251,417
June,	63,212	235,665



As already indicated, these fluctuations were due to the over-competition of the banks and the consequent efforts to protect themselves from the exchanges and from one another.

But when we consider the large proportion of circulation to discounts, as compared with the present, we can understand that the proposal to substitute government paper for bank notes was a very serious matter both for the banks and for the merchants. These considerations led Mr. Hincks, while maintaining the economic soundness of Lord Sydenham's proposal, to doubt the possibility of putting it into operation in its simplest form without producing something like a crisis. He explained, in debate, that the proposal to advance loans to the chartered banks on the security of their discounted paper, was not in the original measure, but was a concession to the banks in order to obviate the necessity for calling in the loans which had been made in their own notes.

Mr. Moffat of Montreal, and some others, while generally favorable to the measure, thought it unwise to take immediate action owing to the public alarm as to the consequences of the proposal. Finally, after a long debate, on motion of Mr. Baldwin it was resolved that it was inexpedient to take the question of the issue of government paper into further consideration during that session. The Government's proposal was defeated by an odd combination between the French-Canadians, the radical Reformers and the ultra Conservatives.

The proposal for a provincial bank of issue being disposed of for the present, the Government had two questions to face. First ; what should be done with the numerous petitions for new and extended bank charters ? Second ; what substitute was to be found for the expected revenue from the issue of government paper ? These questions immediately occupied the attention of the Banking Committee. With reference to the second question the Government still insisted upon deriving a revenue from the right to issue paper currency. They therefore fell back upon Lord Sydenham's other alternative and proposed to levy a tax upon the banks. The proposal took the form of a tax upon the note issues ; a measure supported by the example of the United States and Britain, the latter country taxing the banks through a stamp duty.

Naturally the banking interests strongly opposed this measure also, representing it as a breach of faith on the part

of the Government and an attack on private property. Mr. Merritt recommended that the tax should be only a temporary one. Reasoning from the experience of the Erie canal, which he expected the Canadian highway to largely supplant, he was so convinced of the prosperity to result from the opening of the canals that he believed the tolls on them would in a few years pay both interest and capital. Dr. Dunlop in one of his characteristic speeches upheld the right of the Legislature to impose new taxes, but believed that under the conditions stated by Mr. Merritt the tax might safely be regarded as perpetual. As the taxing of bank notes did not greatly alarm the commercial interests, nor rouse the political suspicions of the radicals or the French Canadians as to the undue extension of government influence, the high Tory element found itself in a minority in defense of the banking interests. However, it managed to lower the tax from two per cent., as at first proposed, to one per cent. Thus for the first time a bank tax became a feature of Canadian finance.

The question of extending the charters and capital of several of the banks was next taken up. Shortly after the resumption of specie payments in Upper Canada, in 1839, a movement was set on foot to secure for the banks an increase of capital. The Toronto Board of Trade supported the proposal, declaring the banking capital to be entirely inadequate to the wants of the community.

Accordingly in the last session of the Provincial Parliament of Upper Canada, bills were introduced to increase the capital of the three chartered banks. These were passed by both Houses but reserved by the Governor. Bills were also introduced to incorporate the Farmers Bank, already in existence as a private joint-stock bank, the Prince Edward District Bank, the Freeholders Bank, and the Erie and Ontario Bank. The first two bills passed both Houses and were reserved; the two latter passed the Assembly but not the Council.

It was stated that Lord Sydenham had absolutely refused to sanction any bank act which did not prohibit the issue of notes for less than five dollars, or one pound sterling, which was the minimum in Britain, and that though the presidents of the chartered banks had endeavored to alter his determination he had remained firm. In any case his instructions required that he should reserve all money bills for the consider-

ation of the Home Government. It was commonly expected that the bank bills would not be sanctioned, because they did not conform to the requirement of the British Treasury Board. The expectation was fulfilled. The Toronto Board of Trade at its annual meeting, in March, 1840, protested against the interference of the Home Government with the money matters of the country, and especially the bank charters. The credit of the Canadian chartered banks was declared to be perfectly sound, though their policy might sometimes be objectionable, as when they employed considerable quantities of their capital in loans to develop the state of Ohio and others, and also to promote speculation in American wheat. This criticism of the Canadian banks we find at intervals from that time to the present.

From the petitions referred to the Committee on Currency and Banking, we find that the Commercial Bank, the Bank of Upper Canada and the Gore Bank were once more seeking for an increase of capital, on the familiar ground that they were unable to meet the demands for accommodation. The Bank of Montreal, the City Bank, and the Quebec Bank petitioned for a renewal of their charters, and the two former for an increase of capital as well. The Niagara District Bank of St. Catharines, which had been seeking a charter since 1834, once more petitioned for an act of incorporation, pointing out that the growing business of the Welland Canal amply justified the establishment of a bank in that District. A petition was also presented praying for a charter for the Three Rivers Bank.

In their final report the Committee on Banking stated that they had instructions to consider the expediency of one general system of banking for the Province, and also the various bank petitions sent in. Having carefully considered the whole subject they recommend that the petitions of the various banks be granted, subject to certain restrictions, most of which had been recommended in a despatch from Her Majesty's Secretary of State for the colonies. The conditions referred to were an expansion of those of 1837 and 1833. As based on these the restrictions suggested by the Banking Committee for all new charters were, in substance, as follows:—

1. The amount of capital of the company to be fixed, and the whole to be subscribed within eighteen months from the date of the charter.

2. The bank not to commence business until the whole of the capital is subscribed, and the half at least paid up.

3. The total amount subscribed to be paid within two years of the date of the charter, unless under very special circumstances.

4. The debts and engagements of the company, on promissory notes or otherwise, not to exceed three times the paid-up capital with the addition of the amount of the deposits made in specie or government paper.

5. All notes of the bank to bear date at the place of issue, and to be payable in specie on demand at the place of issue.

6. Suspension of specie payment on demand, at any of the establishments of the bank, for sixty days in any one year, to forfeit the charter.

7. The company shall not hold shares in its own stock, nor make advances on the security of its shares.

8. The bank shall not advance money on security of real estate, or goods, nor hold real estate, except for the transaction of its business. It shall not be engaged in ordinary trade, but shall confine its transactions to discounting commercial paper and negotiable securities, and other legitimate banking business.

9. Dividends to be made out of profits alone, never out of capital.

10. The bank to publish periodical statements of its assets and liabilities, half-yearly or yearly, under the following form:—

Promissory notes in circulation, not bearing interest.

Bills of exchange in circulation, not bearing interest.

Bills and notes in circulation, bearing interest.

Balances due to other banks.

Cash deposits, not bearing interest.

Cash deposits, bearing interest.

Total average liabilities.

Coin and bullion.

Landed or other property of the corporation.

Government securities.

Promissory notes or bills of other banks.

Balances due to other banks.

Notes and bills discounted, or other debts due to the corporation not included under the foregoing heads.

Total average assets.

11. No by-law of the company to be repugnant to the charter of the bank, or the statutes of the Province.

12. The charter to contain no details relating merely to the internal management of the company's business, but only such general regulations and special powers and privileges as are necessary for the public convenience and security.

13. The amount of notes which may be issued by the bank not to exceed the amount of its paid-up capital.

Thus, mainly through the influence of Lord Sydenham, supported by Mr. Hincks, the chairman of the Banking Committee, the Home Government had at last managed to get its banking principles very largely recognized in Canada. The most important point on which the Home Government had failed, was in the desired restriction of the bank notes to denominations of one pound currency and upwards. Following up its recommendations, the Committee expressed the strong conviction that some uniform system of banking should be adopted for the Province, and therefore also recommended that private joint stock companies, then issuing paper in the Province without the sanction of the Legislature, should be prohibited from doing so after the close of the next session of Parliament, but all the banks now recognized by the laws of either section of the Province should receive charters upon the uniform conditions recommended in the report.

In accordance with the main features of this report, bills were passed granting increased capital and new charters to all the banks petitioning for them, except the Bank of Three Rivers, and in each were embodied the conditions recommended by the Committee. Thus a considerable advance was made towards a uniform bank act for all the banks of the country. However, no attempt was made to suppress all banking institutions but those receiving uniform charters.

As usual, the bills affecting the bank charters were reserved, and when the Royal pleasure with reference to them was communicated to the Canadian Government the following year, it was found that the bills extending the capital of the three chartered banks of Upper Canada had not been sanctioned. But as their charters had still some years to run, this did not affect their business. The others, however, were approved and became law. The new charters were extended

till 1862, but power was reserved to alter their terms at any time in that period. The capital of the Quebec Bank, subject to certain conditions, was allowed to remain at the amount fixed in the Ordinance of the Special Council, being £225,000. The capital of the Bank of Montreal was extended to £500,000, that of the City Bank was increased from £200,000 to £300,000, while that of the Niagara District Bank was fixed at £100,000.

In preparing the way for a uniform banking system in Canada the Committee found one obstacle to their plans in the new charter granted to the Bank of British North America. We have already traced the origin and establishment of this bank. In their original deed of settlement the directors had been empowered by the company to apply for a Royal charter, which was the simplest manner of obtaining a legal standing in each of the colonies at once. But the political difficulties of the period caused the Imperial authorities to decline to add possible causes of friction, hence the necessity felt by the bank to seek provincial acts to protect its business. In 1840, however, it was thought that Lord Durham's Report had convinced the colonies that Britain had no intention of overriding their interests, and it might be safe to obtain the desired charter. The Imperial Government regarding their suit favorably, a Royal Charter was accordingly granted, and in consequence the bank made no further efforts to have its Provincial acts renewed. The directors decided not to publish the terms of the charter, though it was open to inspection by the shareholders at the London office of the bank. However, we learn from the report of the directors, at a special meeting in February, 1840, that the term of the charter was for twenty-one years. The old subscribed capital was to be paid up within three years; but the bank was authorized to double its capital, making it £2,000,000. The obligation of the shareholders was reduced from unlimited to double liability, and, quite generally, the charter expressed the ideas of the Imperial Treasury, including the limitation of the note denomination to sums of £1 cy. and upwards. Still, the charter of such a bank, however unobjectionable its terms, presumed to be beyond the control of the Provincial Legislature, and stood in the way of any general act for the regulation of Canadian banks, or for giving the Government a monopoly of the issue of paper money. Thus the Committee on Currency

and Banking reported that in their opinion the exercise of the Royal Prerogative in this matter was contrary to the spirit and meaning of the Constitutional Act which secured to the Provincial Legislature the entire management of the internal affairs of the Province. They therefore submitted the draft of an address to Her Majesty, respectfully protesting against the infringement of their constitutional rights. However, as the bank of issue was negatived, the question was not pressed, and the Bank of B.N.A. continued to enjoy its colonial privileges under the Royal charter. One enterprising feature of the business of this bank, was the establishment of connections with several other British banks, such as the Provincial Bank of Ireland, the Manchester and Liverpool District Bank, and the National Bank of Scotland, by which intending emigrants might pay in their money to the agencies of these banks and obtain drafts upon the branches of the Bank of B.N.A. in the colonies. This was a profitable business for the bank, inasmuch as it was able to pay the greater part of these sums in its own notes in the colonies, and at the same time sell exchange at a considerable premium against the deposits in Britain. By this means the bank secured a large share of the profits which formerly had chiefly gone to the Bank of Upper Canada; but it tended to check the amount of gold and silver brought to the country by the immigrants.

It may be remembered that at the time of the establishment of the Bank of Upper Canada, when it was virtually a private corporation of the Family Compact backed by the funds of the Provincial Treasury, it was specified in its charter that the head office of the bank should be at the seat of Government, so that wherever the Compact was there the bank might be also. But now that the Government shares in the bank had been sold, and that both as regards stockholders and business the institution was greatly altered, there was neither occasion nor desire to move the head office. Hence, when the seat of Government was changed from Toronto to Kingston, a special act was passed repealing the clause in question. By another act of the session of 1841, all the chartered banks were authorized to carry on business and circulate their notes throughout the Province of Canada. This made it no longer necessary that the Bank of Montreal and the People's Bank, which had been its agent in Upper Canada, should remain separate institutions, hence the latter was merged in the former.

In addition to the regular chartered banks, there continued to be a number of institutions and private individuals, as well as the municipal corporations of Toronto and Kingston, contributing to the paper circulation of the country. Some of these were regular banking companies, like the Banque du Peuple, The Farmers Bank, and the Suspension Bridge Bank, which, though not chartered, were recognized by the Government and their issues taxed. Then there were companies and individuals who had issued notes during the crisis, and who had obtained licences to continue their issues. Thus we hear of the Union Bank at Montreal, of the Newcastle District Loan Company, at Peterboro, and of another new bank to be established at Montreal in the beginning of 1841, with a capital of £200,000 stg. This last was the North American Colonial Association of Ireland, with which Mr. E. G. Wakefield, of New Zealand and other colonial fame, was connected. It had lately purchased the seigniory of Beauharnois from the Hon. Ed. Ellice, and had obtained from the Home Government a charter with extensive powers, among them the authority to undertake the business of banking. This latter power, however, was not very seriously exercised. The Canada Company was also engaged in the exchange business, and in transmitting funds for immigrants, as in the case of the Bank of B.N.A. Again, the Canal Marine and Insurance Co. employed part of its funds in miscellaneous loans and discounts after the fashion of a private bank.

On the whole, however, the function of issuing notes for general circulation was gradually being confined to the chartered banks. The different branches of business were becoming more definitely organized and were confining themselves to their own spheres. Special loan companies were growing up and limiting their activities to the receiving of deposits on time, and the lending of money for longer periods than bank discounts, and on classes of security, especially real estate, properly forbidden to the regular chartered banks. The extension of branch banks and the note issue tax also limited the range of private issues. Thus division of function was being definitely recognized in the financial side of Canadian business, and with it came what Lord Sydenham so earnestly sought to promote, a more definite and scientific recognition of the true sphere and limitations of banking.



# THE MONTREAL CLEARING HOUSE

## ITS HISTORY AND MECHANISM

BY JOHN KNIGHT

A N eminent American banker, Mr. Jas. G. Cannon, has produced what is possibly the only comprehensive history of clearing-houses. He opens his admirable and interesting work with the question—"What is a clearing-house?" The definition he gives is that of the Supreme Court of the State of Pennsylvania:—"It is an ingenious device to simplify and facilitate the work of the banks in reaching an adjustment and payment of the daily balances due to and from each other at one time and in one place on each day. In practical operation it is a place where all the representatives of the banks in a given city meet, and, under the supervision of a competent committee or officer selected by the associated banks, settle their accounts with each other and make or receive payment of balances, and so clear the transactions of the day for which the settlement is made."

This plain and simple explanation clearly and fully defines the object for which the representatives of Montreal banks meet daily, and, throughout the entire Dominion of Canada, the clearing-house is simply a time and labour-saving device. It has yet to become what Mr. Cannon claims it now is in some cities of the United States—"a medium for united action upon all questions affecting the mutual welfare and prosperity of its members." Several efforts have been made by the bank managers of Montreal to widen the scope and extend the functions of the clearing-house of the Canadian metropolis ; but the efforts in the direction of fixing uniform rates of exchange and interest, collection charges, and the cancelling of reciprocal arrangements for doing business for nothing, are yet in the rocking chair stage of "*all motion and no progress.*" However, there is yet hope that in the near future some of the best features of the

American system, as described by Mr. Cannon, may be copied by Canadian bankers, and there is also good reason to pray that we may always be spared the adoption of the method of settlement known in New York and elsewhere as "Clearing-house certificates." The bankers of the Dominion would, we venture to think, in the light of their experience of 1893, when the requests for payments of balances due by New York banks to their Canadian correspondents were met with offers of clearing-house certificates, unite in declining to pronounce such useless attestations to the accuracy of the amount due to them as an equivalent or representative of cash.

But, since the amalgamation of the Bankers' Section of the Board of Trade with the Montreal Clearing House, the members of the united body have felt more free to prescribe rules and regulations, and to frame agreements for the control of the banks of Montreal in various matters. It is to their action that the officials employed in the banks owe the enjoyment of a genuine half-holiday every Saturday. The popularity of this movement has been attested to by the majority of the clearing-house cities of Canada, and by several of the monetary institutions at less important points. Nearly every banker in the Dominion has now the weekly opportunity of seeking health and recreation in the country during the summer months, and to devote an afternoon all the year round to athletic sports and exercise. Perhaps the success of their efforts in devising means of taking care of the health of their officials may spur Montreal bank managers into renewed effort to cope successfully with the many projects for united action upon all questions affecting their mutual welfare.

Mr. Cannon, in his history of clearing-houses, refers to the developement by every profession and trade of its own peculiar terms and phrases, and he states that the usage in this regard by banks and clearing-houses is no exception to the general rule. Of course, to those familiar with the routine work of a Canadian bank, and it is mainly for such we are writing, it will not be difficult to comprehend the current terms employed in describing the mechanism of a clearing-house. It will not be necessary to state that the term "to clear" means "to pass through the clearing-house." But it is a safe deduction in

philosophy that what is a simple detail in the daily current of the lives of bank officials may be to their brothers as a Chinese laundry bill is to the man who is unacquainted with the monetary signs of the followers of Confucius. We therefore deem it only fair to any chance reader of this article, or to any bank clerk who may not have attended the clearing-house, to quote Mr. Cannon's definition of the term "to clear."

"The term 'to clear' is popularly defined 'to pass through the clearing-house.' Another definition is 'to settle accounts by exchange of bills and checks as is done in the clearing-house.' To clear a check means to pass it from the bank that holds it as a deposit or for collection to the bank on which it is drawn, and to receive payment therefor, but, with the complexities of modern business, a single check is seldom cleared. Instead a multitude of checks and other items are included in each clearing. The term 'to clear' therefore takes on a broader meaning, and the only adequate conception of it is afforded by a view of the actual operations of a clearing-house which are set forth in another part of this volume."

Having given Mr. Cannon's explanation of what a clearing between banks designates, we will now proceed with this brief history of the Montreal Clearing House, and endeavour to describe its mechanism, and the daily doings of its members. At the close of the year 1888, a small committee composed of the senior officers of three of the leading banks issued a circular giving a few practical reasons for the establishment of a clearing-house. In this circular it was stated that the proposed clearing-house would only deal with the matter of clearings, and that the mechanism would be made as simple and concise as possible. Eventually the plan adopted was almost identical with the system of clearing so successfully introduced at Halifax, N.S., in the previous year.

The reasons advanced for having a clearing-house in Montreal must appeal to every business man in Canada:—

Time saved in daily exchanges and obtaining settlements.

Diminution of risk to bank messengers delivering deposits.

Prompt settlement of balances instead of vexatious delays.

Less actual cash required in settling, having only one balance to pay or receive instead of a number.

Saving of time and labour in each bank, no bank ledger, bank pass books nor bank entries in cash being necessary with the proposed system of clearing.

A meeting of the interested banks was held, a committee appointed to draft rules and regulations, and the Montreal Clearing House opened for the purpose of effecting the first exchange of cheques and notes between banks under the new system on January 7th, 1889, at a temporary room in the Merchants Bank of Canada.

Some of the rules and regulations then adopted are still in force, and are found to work admirably. A committee of seven bank representatives appointed to manage the affairs of the Clearing House made arrangements with the Bank of Montreal to act as clearing-bank for the receipt and disbursement of balances due to and by the various banks. Beyond some slight changes in the time of meeting, and the abolition of a second meeting each day to adjust differences owing to returned items, the following rules are yet in force, and form a fair outline of the daily course of procedure in exchanging and settlement between the banks of the chief city of Canada.

“The clearing bank shall be responsible only for the sums  
“of money actually received by it from the debtor banks and  
“for the distribution of such sums among the creditor banks on  
“the presentation of the usual Clearing House certificate properly discharged. The clearing bank to give the usual receipt  
“for balances received from the debtor banks. The Board of  
“Clearing shall also arrange for an officer to act as manager of  
“the Clearing from time to time.

“The hour for making exchanges at the Clearing House  
“shall be 10 o'clock a.m. precisely. All debit balances must be  
“paid into the clearing bank between 12.00 and 12.30 o'clock  
“of same day, and between 12.30 and 1.00 o'clock p.m. the  
“creditor banks shall receive from the clearing bank the balances due to them respectively, provided that the balances due  
“from the debtor banks shall then have been paid. But on no  
“condition shall any creditor balance or portion thereof be paid  
“until such debtor balances have been settled. The medium to  
“be used in clearing shall be legal tenders of the largest possible  
“denomination.

“In the event of any bank failing to pay the balance against it at the proper hour, such bank shall be ruled out by default and notice thereof in writing given by the Manager or Cashier of the clearing bank to the other banks. The amount of said balance shall be supplied to the clearing bank by the members to whom the defaulting bank is a debtor in proportion to the amounts due to them respectively from the defaulting bank according to the exchanges of that day. After the clearing, the respective amounts so supplied to the clearing bank on account of the defaulting bank will constitute claims on the part of the responding banks against the defaulting bank. Any such responding bank may cancel its exchanges of the day with the defaulting bank by tendering repayment to said defaulting bank of the amount, if any, of cheques and other items received by it (the creditor bank) through the exchanges of the day at the Clearing House from or on account of the said defaulting bank, and receiving in return all the cheques and other items delivered by it to the defaulting bank in the morning exchanges at the Clearing House of the day on which said default occurred.

“Errors in the exchanges and claims arising from the return of cheques, or from any other cause, are not to be adjusted through the clearing bank but directly between the banks interested.”

We have referred to the first meeting of the Montreal Clearing House. The results of the clearing on that occasion are recorded in the minute-book of that body with pardonable pride in the success of the venture. The clearing-house proved to be all that had been claimed for it as a time and labour-saving device. The exchanging of parcels commenced at 10.10 a.m., the total amount delivered by the sixteen banks in attendance being \$1,458,474.84. The amount of money required under the new system to be paid into and disbursed by the settling bank was only \$390,452.06, and the time consumed by the clerks and officials in effecting this exchange was fifty minutes. Under the old plan of bank to bank delivery, fully one-half of a banking day would have been given to arriving at the same goal.

The passage of time has much more conclusively exhibited the incalculable advantages of the clearing-house as a means of

effecting the daily exchange of notes and cheques between banks. The record day's clearing of the present year in Montreal amounted to \$5,777,609.53, the actual sum in legal tender notes required in settlement was \$618,000, and the actual time taken in delivering, receiving and balancing was only *seventeen minutes*.

Such facts and figures as these clearly demonstrate the extreme usefulness of a clearing-house, and, in the illustration just given, they do more. They show the expansion of the trade and commerce of the country since the year 1889, even if it has to be admitted that a large percentage of the 5 $\frac{1}{4}$  millions of dollars referred to as a day's clearing in Montreal in April last represented the receipts of the Stock Exchange, the results of the flotation of large industrial corporations and extraordinary activity in the stock and bond market.

The table published herewith has been carefully compiled from the records of the Montreal Clearing House, and exhibits the annual increase in the amount of money annually passing through the Clearing House of the Metropolis.

YEAR.							AMOUNT.
1889	-	-	-	-	-	-	\$454,560,000
1890	-	-	-	-	-	-	473,984,000
1891	-	-	-	-	-	-	514,607,000
1892	-	-	-	-	-	-	590,043,000
1893	-	-	-	-	-	-	568,732,000
1894	-	-	-	-	-	-	546,600,000
1895	-	-	-	-	-	-	583,160,000
1896	-	-	-	-	-	-	527,851,000
1897	-	-	-	-	-	-	601,185,000
1898	-	-	-	-	-	-	732,264,000
1899	-	-	-	-	-	-	794,029,000
1900	-	-	-	-	-	-	730,933,000
1901	-	-	-	-	-	-	889,479,000

As the Montreal clearings for eight months of the present year amount to \$710,000,000, there is every probability of the total for 1902 exceeding a billion of dollars.

What takes place at the meetings in Montreal of the banks' representatives for the purposes outlined in this brief history may be summarized thus:—

The exchange occurs daily at 10 o'clock a.m. (on Saturdays half an hour earlier). Each bank, at the appointed time, sends representatives to the Clearing House with the notes and cheques of other banks enclosed in sealed envelopes. At the appointed time, the Manager calls out, "Ready!" and rings a bell. Each messenger from the eighteen banks then delivers the parcels in his possession, and receives in return other parcels, and returns to his respective bank with his delivery statement duly initialed by the clerks who have received the parcels he has delivered. The clerks remain to transcribe the amounts received, as shown by tickets removed from the parcels delivered to their respective messengers, to settling sheets, and proceed to calculate the difference between the amounts delivered and the amounts received—the said differences constituting the credit or debit balance for which the manager of the Clearing House, if his figures agree with their claims upon him, signs vouchers to be used later at the settling bank. If the work of those present has been performed with accuracy, and the manager finds from the vouchers delivered to him that the amounts therein stated as due to the Clearing House exactly agree with the amount due by same, the satisfactory result is announced by another ringing of the bell, and the attendant clerks return to their respective banks.

A careless or incompetent official may cause confusion and delay, and necessitate a search for errors varying from one cent to one hundred thousand dollars. However, a discrepancy seldom remains long undiscovered, and, when the error is traced to its source, the culprit is presented by the Manager with a valentine, in the shape of a card inviting the recipient to pay a fine to the treasurer. The following notice, conspicuously displayed in the clearing-room, shows the fines to be moderate in amount. Since the imposition of penalties about six months ago, there has been a marked improvement in the work performed by those who attend at the Montreal Clearing House. The rules and fines read as follows:—

"Representatives of banks in attendance at the Clearing House will be required to conduct themselves in a quiet and

orderly manner, to be attentive to their duties, to remain at their desks while the proof is being made, and until it is announced. Loud communications, conversation, or anything tending to create disturbance or confusion, will not be permitted.

All fines imposed by the Manager shall be paid to the Treasurer at once.

The Manager is authorized to require from members, the signatures of those authorized to sign receipts for balances.

#### FINES

1. All errors on the credit side (amount brought) of settling clerk's statement . . . . . \$ .50
2. Errors in making debit (amount received) entries . . . . . 50
3. Errors in tickets on parcels causing disagreement between balances and the aggregate . . . . . 50
4. Errors in addition of amount received by bank . . . . 1.00
5. Disorderly conduct of clerk or delivery messenger at the clearing-house, or disregard of manager's instructions, each offence . . . . . 2.00
6. Clerk or messenger failing to attend punctually at the morning exchange . . . . . 1.00
7. Debtor banks failing to appear to pay their balances at the time appointed at the settling bank . . . . . 1.00
8. For all errors remaining undiscovered at eleven o'clock, fines will be doubled.

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Should errors be discovered in the sealed packages referred to, the differences are adjusted between the interested banks without having recourse to the clearing-house.

As the fine for failure on the part of a bank's representatives to attend punctually when first introduced occasionally led to an exchange of opinions about the veracity of the clearing-house clock, the following notice is posted in the clearing-room where all concerned may read and digest same.

*Any representative of a bank, desirous of questioning the time as told by the clearing-house clock, will kindly report his wish IMMEDIATELY ON ARRIVAL to the presiding officer, so that the correct time may be promptly ascertained by telephone and the clearing-house clock regulated, if necessary.*



As a "perfect and satisfactory settlement of the daily balances" between their members, the clearing-houses established in Canada have been notably successful, and the founders thereof probably never intended that the functions of a clearing-house should include aught else than a daily meeting for the purpose of effecting an exchange of cheques and notes.

To quote again from Mr. Cannon's history:—

"No uniform rates of charges for collection of items, no "maximum rates of interest on deposits, no borrowing and "loaning of balances at the clearing-house, no procuring of "legislation relative to banking, no clearing-house loan certificates, and no bracing up of weak members are known to the "Canadian clearing-house associations. It has been left to the "Canadian Bankers' Association to do whatever is possible in "securing proper legislation for the banks. The necessity for "the issue of clearing-house certificates in the United States, "as shown in another chapter, has been due, in the main, to "the lack of elasticity in our currency, and, *since the banking "issue in Canada obviates this weakness, there has been no "occasion for the issue of such certificates."* \*

Mr. Cannon claims that the American clearing-house system was not borrowed from that of any other country, but that it is *possible* that some of those who were responsible for the organization of the first clearing-house in America "knew somewhat of the existence of a clearing-house in London." We do not regret that this is as it is. We are glad to think that Mr Cannon found the origin of the London Clearing House to be shrouded in doubt and uncertainty. We subscribe to his belief that the clearing-house is "a growth or development, something proceeding from well-defined causes and springing into existence to meet a clearly expressed want." He adds, "It was presumably at the outset an institution of so little importance that the historians of the day paid no attention to it." Be this as it may, there is record in the books of Martin & Co., bankers, of London, in 1773, of payment of 19s. 6d. for a quarter's rent of the clearing-room. (See Mr. Cannon's book.)

The admission of the historian of clearing-houses that he found the origin of the London institution shrouded in doubt

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\* The italics are the writer's.

and uncertainty inclines us to pin our faith to the old, old story of its birth told by English bankers, and to believe that a few of the wide-awake forefathers of the present race of bank messengers found their daily work could be materially reduced by meeting at one of the central London coffee-houses, and there, over a pint pewter of ale, exchanging the parcels they would otherwise have had to deliver from bank to bank.

To a reflective mind, the changes which have occurred since these unknowing founders of the first clearing-house endeavored to simplify and facilitate the work of banks are surprising. The London coffee-house and the messengers of 1773 have passed away, and the revolutions of years have given us palatial edifices, like the New York Clearing House, and a steady, well-conducted set of men in the neat and simple uniforms of their respective banks, with a quiet, thorough-going way of passing along to their duty at the clearing-houses without regard to the allurements of the modern coffee-house.

The clearing-house is one of many ingenious devices to simplify and facilitate daily work, the privation of any one of which would grievously disturb the temper and affect the comforts of the present generation.

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### NEW YORK'S FIGHTING BANK

THE Chemical National Bank of New York has gone through two years of expensive litigation to correct the court decisions of New York, and to place the responsibility for comparing returned vouchers with the pass-book of the depositor. The case which the Chemical National Bank carried up was brought about by the dishonesty of a confidential clerk, who cashed the firm's checks without suspicion by the bank, and to whom the firm in return gave the pass-book for auditing and comparison. His detection was brought about by the firm itself who at once made demand upon the bank for the \$5,000 or more which the clerk had secured by false checks. After two years of litigation the courts have decided to place the responsibility for errors or losses of this kind upon the depositor, where it properly belongs. The old Chemical National Bank is known as a "fighting bank," and its efforts will be applauded and praised by bankers everywhere.—*The Chicago Banker*.

## QUESTIONS ON POINTS OF PRACTICAL INTEREST

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THE Editing Committee are prepared to reply through this column to enquiries of Associates or subscribers from time to time on matters of law or banking practice, under the advice of Counsel where the law is not clearly established.

In order to make this service of additional value the Committee will reply direct by letter where an opinion is desired promptly, in which case stamp should be enclosed.

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The questions received since the last issue of the JOURNAL are appended, together with the answers of the Committee:

QUESTION.—A branch with considerable discount business has a much larger amount of deposits bearing interest. At the end of the year, therefore, the statements appear to show no profits. The surplus funds having been used by the bank generally, what would, in the present conditions of business, be a reasonable rate to allow the branch for them? Do any banks allow anything to such branches, and if not, how is their profitableness arrived at?

ANSWER.—We do not know whether any banks make actual entries for interest on capital supplied by branches, but we assume that the profitableness or otherwise of the branch is tested by computations in which full allowance is made for this.

As to rate, we think this should not be less than 4% nor more than 5%, but the proper figure is a matter as to which opinions may well vary.

QUESTION.—A bank on presenting a draft for acceptance is tendered a post-dated cheque for the amount. This it holds, together with the unaccepted draft, until maturity, when the cheque is dishonoured. The bank having failed to notify the drawer and endorsers of the draft that it had not been accepted,

does it lose its right of recourse against said drawer or endorsers.

ANSWER.—We think the position is that the collecting bank has allowed all the parties on the bill to be discharged, and that it has no recourse except to make the best it can out of the dishonoured cheque.

QUESTION.—A cheque on bank "B" is deposited with bank "A" by Jones & Company, who endorse it. Does bank "A" release Jones & Company when it gets the cheque certified by bank "B"? If so, does it not leave bank "A" without redress, for if, instead of certification it had asked for cash, bank "B" would no doubt have said, "Send it in with your deposit to-morrow."

This of course refers to such circumstances as those mentioned, where bank "B" suspends immediately after certification.

ANSWER.—Bank "A" can protect itself fully by demanding payment, and if this is not forthcoming, by treating the cheque as dishonoured. If, because of its unwillingness to take so extreme a step, it chooses to be put off by bank "B" in the way mentioned above, and the latter suspends, "A" must take the consequences of its complaisance.

If there be doubt as to the solvency of the bank, the only safe course is either to demand payment on presentation or not to present the cheque at all in the afternoon, but send it in the ordinary exchanges next morning. If then dishonoured, the holder can charge it back to the depositing customer, as the presentation in such case would be made in due course.

QUESTION.—Can a dishonoured cheque be protested before the regular bank closing hour?

ANSWER.—Neither a cheque nor any other bill of exchange can be protested before three o'clock (see Section 51.6B). This, however, has nothing to do with the time for presentation. If the cheque were dishonoured at ten o'clock in the morning, it could then be handed to the Notary, and he could, without further presentation, complete the protest at three o'clock.

QUESTION.—A joint and several promissory note is made by three promissors, one signing as surety, the other two being

the debtors. The surety has to pay the note ; can he not recover from either of the other promissors?

ANSWER.—We think that under the circumstances mentioned he is entitled to bring suit against either of the other promissors on the theory that as he was surety for their joint and several debt, which he has had to pay, they must jointly or severally reimburse him.

Where there is in force an Act similar to "The Mercantile Amendment Act" of Ontario, the surety in such a case gets all the rights of the prior holders against those who ought to pay the note, and the note is not to be deemed to be discharged by the surety's payment. (See Section 1, Cap. 145, Rev. Stats. Ont.) In the absence of statutory provision of this kind the note would be discharged by payment made by one of the promissors, even if he was in reality a surety only, and his remedy would not be on the note, but would rest on the common law respecting sureties.

QUESTION.—A draft is received for collection from a Western bank with a Bill of Lading "To order" attached, instructions being "Surrender Bill of Lading on payment." Drawee asks for permit to examine goods; can collecting bank grant it?

ANSWER.—We do not think the bank ought to interfere in such a point without the approval of the parties interested.

QUESTION.—Can a bill be protested by a Notary Public on the strength of presentation by the bank and without presentation by himself?

ANSWER.—Yes.

QUESTION.—What is the smallest portion of a Canadian bill that must remain to entitle the holder to its redemption at face value?

ANSWER.—Theoretically, if a person, without having any portion of a bank bill, can prove conclusively that he is the owner of the bill, and that it has been destroyed, he is entitled to have it redeemed in full, on giving indemnity. In this respect he is in the same position as the owner of a lost promissory note of the ordinary kind. There is, however, this serious practical difference in dealing with lost or destroyed bank notes,

that while indemnity can be given for an ordinary note, because it can be easily identified, no indemnity is practicable for a lost bank note, for the obvious reason that identification would be impossible.

We think that the principle followed by banks in redeeming mutilated notes is to pay them in full if satisfactory evidence of the destruction of the missing part is forthcoming. If not, and if the missing part is an important portion of the bill, it is difficult to see what claim the holder has.

QUESTION.—I am advised by a leading solicitor here that a bank can be compelled to pay the amount of a lost deposit receipt without a bond of indemnity, on the ground that the deposit receipt, not being transferable, but payable only to the depositor, his receipt for the money is sufficient. Also that no provision is made in the contract as expressed in the deposit receipt respecting a bond to be given in case of loss.

I should be glad to know what the Counsel for the Association thinks on this point.

ANSWER.—A deposit receipt in the ordinary form is not negotiable and is a mere evidence of indebtedness by the bank to the depositor. The loss of the receipt may inconvenience the depositor in proving to the satisfaction of the bank that he is the person entitled to the payment of this indebtedness; but if he were able to establish his right to the deposit by other evidence, the bank would have to pay him. It would be no defence to an action by him against the bank to recover the amount of the deposit that he had been given a receipt not negotiable, which receipt was not forthcoming; and he could not be compelled to give a bond of indemnity before claiming payment. If there were any special terms in the deposit receipt which he would have to comply with before claiming payment of the deposit, he would of course have to comply with them as a matter of contract; but the legal position with respect to the effect of special terms would have to be considered in view of the exact terms and of the circumstances at the time.

If the receipt contained the usual phrase "fifteen days' notice of withdrawal to be given and this receipt to be surrendered before payment is made," it would certainly be a condition of the contract that the receipt should be surrendered

before payment can be demanded, and *prima facie* the bank would be justified in refusing payment until this condition had been performed; but we think that the condition is one which would be held to have been discharged if the circumstances rendered it impossible of performance as a matter of fact, *e.g.*, if the receipt had been burnt or otherwise destroyed. The bank would in such a case be acting unreasonably if it refused to accept a bond of indemnity and pay over the money, and if in an action brought by the depositor he proved the destruction of the receipt, the Court would in all probability order the bank to pay the costs of the suit.

QUESTION.—A Loan Company shows among its assets \$5,000 for costs of charter and \$29,200 for organization expenses, the latter having been increased somewhat during the year. Would the Directors be justified, in the face of this, in paying a dividend to the shareholders? Their total assets do not much exceed \$200,000.

ANSWER.—The right of Directors to pay a dividend depends upon the state of the profits. A dividend cannot lawfully be paid which would impair the capital, or while the Company is insolvent, but if there be profits on hand they can be used in payment of a dividend. We think there is nothing in the conditions mentioned to prevent the Directors from lawfully paying a dividend; the expediency of it is another question.

QUESTION.—The drawee of a Bill of Exchange accepts and pays it. It is subsequently found that the signatures of the drawer and payee are forged. Can the drawee recover the money from the party who endorsed subsequently to the forged endorsement? Is not the bill discharged by payment of the liability, and the endorsers thereby discharged?

Would your opinion be affected by the following considerations: that the names of the drawer and endorser, which are forged on the bill, are those of employees of the drawee; that their signatures were well known to the drawee; and that the forged endorsement was totally unlike the genuine?

ANSWER.—The rights of the parties in this case are governed by section 24 as amended in 1897. The drawee has, under that amendment, a right, having paid the bill on a

forged endorsement, to recover the money from the party to whom it was paid, or from a prior endorser, who endorsed the bill subsequently to the forgery, provided the bill was paid by him in good faith and in the ordinary course of business, and provided that due notice is given. The circumstances connected with the drawee's knowledge of the endorser's signature would certainly be material in coming to a conclusion upon the question of whether the payment was or was not made in good faith and in the ordinary course of business, but it would require a very clear case to warrant the conclusion that the payment was not so made, merely because the drawee might have discovered the forgery by examining the signatures.

The rights above mentioned grow out of the payment on a forged endorsement, and the fact that the drawer's signature was forged also does not affect the question. But if the endorsement had been valid, the drawee could not reclaim the money, as he is precluded from denying the genuineness of the drawer's signature. See Section 54.

QUESTION.—A draft is accepted thus : "Accepted payable at. . . . to mature 4th October, 1902." Does this acceptance mature on 4th or 7th October ?

ANSWER.—Looking at the acceptance alone, we think the bill is due on 7th October. It cannot be said that it provides that there should be no days of grace, and under section 14 (a), Bills of Exchange Act, three days are in every case to be added to the time of payment fixed by the bill, unless the bill itself should otherwise provide.

QUESTION.—A bill is sent for collection bearing on the face the stamp of the bank which sent it. The stamp shows the name of the bank, the branch, etc. The item is not made payable to the sending bank, and is not endorsed by it.

Has the bank receiving this bill for collection any right to object ?

ANSWER.—One of the responsibilities assumed by the collecting bank is the return of the money, should the prior endorsement prove to be forged or unauthorized. On this ground they might properly ask that the bill should be endorsed to them by the bank sending it for collection, so that their recourse might be clear.



QUESTION.—Is it proper to make payable “with interest” or “with bank charges”?

ANSWER.—We doubt if a note drawn “with bank charges” is a promissory note within the Act. A note “with interest” is, and this form is certainly preferable. If it is intended to add more than the interest to the note, the amount should be ascertained and this included in the amount of the note.

QUESTION.—Can an executor legally authorize another to sign documents for him as executor?

ANSWER.—Yes. This is not a delegation of authority, but merely the appointment of one to sign the principal’s name, and the signature is in law that of the principal.

QUESTION.—A By-law of a municipal corporation authorizes borrowings from the bank repayable on or before 15th December. The note tendered is made payable on 15th December. With the three days’ grace this makes the amount payable on 18th December. If we discount the note can the loan be said to be made strictly within the terms of the By-law?

ANSWER.—If the By-law provides that a note shall be given for the amount borrowed thereunder, payable on or before 15th December, we think a note payable on 15th December is in order. The Bills of Exchange Act would recognize that as “the time of payment” fixed by the note, while making it “due and payable” on the 18th December.

We are in any case of opinion that the irregularity, if one can be said to exist, would not invalidate the lender’s claim.

QUESTION.—A draft for collection was accepted for less than face, but charged to drawee’s account as for full face in error. Bank from whom received refuse to refund amount overpaid. Must they repay, or on whom should loss fall?

ANSWER.—This appears to be a clear case of payment under mistake, and one where the party receiving the money should refund the amount overpaid.

The partial acceptance has of course important consequences with respect to the drawer and endorsers, but it does

not make the acceptor liable for more than the partial amount, and having paid more, in error, he is entitled to recover the excess unless special circumstances intervene which would debar him from doing so.

QUESTION.—Sub-section 3 of section 84 of "The Bank Act" protects a bank which pays over a deposit not exceeding \$500 in pursuance of and in conformity to letters of administration or probate granted by certain Courts. Has a bank the right to demand the lodgment of authenticated copies of the Letters of Probate before payment? If so, is the case different where the deposit exceeds \$500?

ANSWER.—The sub-section referred to does not give the executor or administrator appointed by a foreign Court the right to demand payment; it merely justifies and protects the bank in making the payment if it should be willing to do so. Under these circumstances, it is of course free to name any reasonable conditions, but apart from this it is clear from the terms of the sub-section that the bank is not protected unless authenticated copies of the documents are lodged with it.

Where the deposit exceeds \$500, the sub-section does not apply, and the ordinary rules of law prevail. The person seeking payment must produce Letters of Administration or Probate, or other sufficient authority, granted in the Province where the payment is to be made, and in this case the bank is not entitled as of right to retain the evidence produced.

QUESTION.—A Canadian bank sells a sterling draft on London to a customer. It is made payable to a person in a foreign country. The draft is cashed by a foreign bank for a person who forges the payee's endorsement, which bank in turn collects the amount through its London Agent from the drawee in London.

Under these circumstances, has the purchaser of the draft any right of action against the bank which drew it? We presume not, but if so, what remedy has the owner of the draft?

ANSWER.—The purchaser has, as you assume, no right of action against the bank which drew the draft; he could only have such a right upon the bill as a dishonoured bill, which he could not have unless it were in his possession.

The only other parties who could be liable are:

- (1) The foreign bank,
- (2) The London bank to which the bill was sent by it, and
- (3) The bank on which the bill was drawn.

The true owner of the draft, who might be either the purchaser or the payee (this depending on facts not stated in the question, would probably have a claim on the foreign bank which cashed it on the forged endorsement, but his rights would be governed by the law of the country in which the transaction of cashing the draft took place. If this were like the English law, his claim on the foreign bank would be clear. He would also have a claim on the London bank which received the amount of the draft from the drawee bank, but their liability might be affected by the nature of their relations with the foreign bank. His claims on both of these arise from their having received and converted his property, and not out of any provision of law relating to bills.

The remaining question, namely, the owner's rights against the bank on which the bill was drawn, has not, so far as we are aware, been judicially decided. The question is very important and interesting, and we give the reasoning on both sides of it.

Section 24 of the Act in very clear terms declares that where a signature on a bill is forged, the forged signature is wholly inoperative, and no right to retain the bill or to give a discharge therefor or to enforce payment thereof against any party thereto can be acquired through or under that signature, unless the party against whom it is sought to retain or enforce payment of the bill is precluded from setting up the forgery. If effect were given to these words in their unqualified form, we would say without hesitation that a person claiming to be the holder of a bill through a forged endorsement, even though he acquired the bill as a subsequent holder for value and without any notice of the forgery, could not discharge the acceptor by presenting the bills on the day of its maturity at the proper place and receiving payment from the acceptor and delivering the bill up to him. It must be borne in mind, however, that section 24 commences with the words "subject to the provisions of this Act."

"Holder in due course" is defined by section 29 to be a holder who has taken a bill complete and regular on the face of

it, under conditions, of which one is, that he took the bill in good faith and for value, and that the time the bill was negotiated to him he had no notice of any defect in the title of the person who negotiated it.

By section 2, the expression "holder" is defined to mean "the payee or indorsee of a bill who is in possession of it, or the drawer thereof." Section 38 declares that the rights and powers of the holder of a bill are, among other things, (b) where he is the holder in due course he holds the bill free from any defect of title of prior parties; and (c) where his title is defective, if he obtains payment of the bill, the person who pays him in due course gets a valid discharge for the bill.

Section 55 declares that the indorser of a bill by indorsing it (b) is precluded from denying to a holder in due course the genuineness and regularity in all respects of the drawer's signature and all previous indorsements; (c) is precluded from denying to his immediate or to a subsequent indorsee that the bill was, at the time of his indorsement, a valid and subsisting bill, and that he had then a good title thereto.

Section 59 provides that a bill is discharged by payment in due course by or on behalf of the drawee or acceptor, and that "Payment in due course" means "payment made at or after the maturity of the bill to the holder thereof in good faith and without notice that his title to the bill is defective."

The arguments against the right of the drawee or acceptor to claim a discharge by payment to a person, a holder under a prior forged indorsement are of course based upon section 24, which declares that a forged signature is wholly inoperative and no right to retain the bill or to give a discharge therefor or to enforce payment thereof can be acquired through or under that signature.

The arguments in favour of the right of the drawee or acceptor to claim a discharge by such payment are the following:

1. The statement in section 24 referred to is expressly declared to be "subject to the provisions of this Act." The statement that no right to give a discharge is also qualified by the words "unless the party against whom it is sought to retain or enforce payment of the bill is precluded from setting up the forgery or the want of authority."

2. Under section 55, the first indorsee after the forged indorsement is precluded from denying to his indorsers the

genuineness of the forged indorsement, and is also precluded from denying that he then had a good title.

The definition of "holder" by section 2 would include this indorsee and he would become a holder in due course within the meaning of section 55, at all events with respect to his indorser and all prior indorsers subsequent to the forged indorsement. He could bring an action on the bill itself against the prior indorsers. In order to hold the prior indorsers he would have to duly present the bill for payment, and if payment were refused he would have to protest the bill for non-payment or the indorsers would be discharged. He therefore has the right to present the bill for payment and to protest it. If he presented it for payment and it was paid, he could not of course protest it for non-payment. The effect, therefore, of payment would be to discharge the liability of the prior indorsers.

Section 59 expressly declares that a bill is discharged by payment in due course, and that "payment in due course" means "payment to the holder in good faith and without notice that his title is defective." The holder mentioned in section 59 is the holder defined by section 2, namely, "the indorsee of the bill who is in possession of it." It would be a remarkable result if payment under such circumstances would discharge the prior indorsers and would not discharge the drawee or acceptor who actually pays. The reference to good faith in section 59 refers to the good faith in making the payment and not to good faith of the holder. A way in which the various provisions of the Statute relating to this question can be reconciled is to confine the statement in section 24, that "no right to retain the bill or give discharge therefor can be acquired through or under the forged signature," to the case of a party claiming to be the holder through the forged signature only. If he claims to be the holder through a genuine indorsement subsequent to the forgery, the other provisions of the Act mentioned would appear to give the right to present for payment and receive payment and give discharge to the drawee acceptor.

As above stated, we are not aware of any judicial decision on this very important question, but we think it probable that when it comes up for decision, the decision will be on the lines indicated.

## A SIGNIFICANT BANK AMALGAMATION

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THE absorption by the Union Bank of London of the London banking house of Smith, Payne & Smiths, and the allied provincial banking firms in which the Messrs. Smith are partners, is a financial event of distinctive interest. This is due not merely to the magnitude of the businesses which are to be absorbed—although the acquisition of a group of banks with deposits of ten millions is not an every day occurrence; nor to the long history and high standing of the banks to be taken over—though this, again, would suffice to make the event noteworthy; but to the fact that, in a sense, the amalgamation constitutes a departure from the established and recognized trend of modern banking amalgamation. There is nothing at all new in the spectacle of a joint stock bank absorbing private banking firms. This is one of the commonest forms of fusion. As the chairman of Parr's Bank observed when that bank recently took over Pares' Leicestershire bank, every bank now recognizes that it must "either eat or be eaten," and the remaining private banks recognize clearly enough by this time which of these roles is allotted to them. An incidental illustration of this is to be found in the recently proved will of one of the partners of Messrs. Smith, Payne and Smiths. The will was made seven years ago, but in it there was an express provision for the contingency of the transference of the business to a joint stock bank with limited or unlimited liability.

The distinctive feature of this latest absorption is not, therefore, that it is a case of a joint stock bank taking over a private institution. It lies in the fact that it affords an exceptional instance of a purely Metropolitan bank entirely altering its course and its mode of operations by expanding into the provinces. If we had had no experience to guide us, that would seem to be the most natural and ordinary tendency, but the very reverse is the case. The history of the three leading "amalgamating" banks—Lloyds, the London City and Midland, and Parr's—may be cited in support of this contention. All three were originally provincial institutions, and all of them entered London by means of the acquisition of established

London businesses. This is the general trend. To strong and growing provincial banks there is something irresistible in the idea of coming to London. So far as banking is concerned, the epithet "provincial" no longer implies contempt—that distinction has been transferred to the term "suburban"—but it still implies limitation, disability. A seat in the London clearing-house, direct representation in the Metropolis rather than representation at second-hand through a London agent, a share, otherwise unattainable, in the cosmopolitan financial business of which London is still the centre—these are among the inducements which have caused some of the most powerful provincial banks to enter London by the only open gateway of amalgamation, and which have infused into London banking a strong and healthy provincial leaven.

The tide of banking amalgamation has hitherto flowed strongly from the country to London in the first instance, and only secondarily outwards again. It would be premature to say that this centripetal tendency is ceasing to operate. The probability is that it has by no means spent itself yet. The absorption, however, of the businesses of Messrs. Smith at Nottingham, Derby, Newark, Hull, Lincoln and the districts of which some of these towns are the centres, appears to us to mark a distinct turning-point. It indicates that London banks, hitherto content with surrendering at discretion one after another to the provincial onslaught, are beginning to realize that, if they are to preserve their identity they must themselves assume the offensive, and we shall be much surprised if the example of the Union Bank of London in assimilating this group of provincial businesses is not followed by the remaining large joint stock banks, which have hitherto confined their operations to the Metropolis. What those who are responsible for the direction of such institutions are thinking is, in effect, something like this: Why should we, with our important country agencies, wait for other banks to deprive us, by amalgamation, of our provincial correspondents one by one, leaving us with a bare and possibly dwindling London business? and why, with our metropolitan position and connections, should we ourselves wait to be taken over by a provincial bank, when it is open to us to take time by the forelock, and ourselves acquire the advantages which a provincial connection confers?

The fact is, a purely metropolitan joint stock bank is at a disadvantage at many points compared with a bank with bran-

ches both in town and country. Take two matters—lending rates and facilities for transferring money, as instances. When lending rates are high in London, the banker with branches both in the provinces and London, can share the advantages of those rates with the London houses; but when London rates are low, the London banker with provincial branches can always fall back upon the good rates obtainable in those country districts where, year in and year out, be the bank rate what it may, a steady 4 or 5 per cent. can be obtained on his advances. He is not obliged to lend at the low rates with which the purely London banks—to the detriment of their dividends—had to be content, for example, during the long spell of cheap money which characterized the mid-nineties. In other words, he has the advantage of being always able to sell in the dearest market. The advantage which the “mixed” banks enjoy in the matter of the transfer of money is even more marked, because it is irrespective of the condition of the money market, and it tends to grow greater with the ever-increasing number of fusions in general commerce. Existing commercial houses and trading companies, which once banked with purely metropolitan institutions, transfer their accounts to the banks which, by reason of their network of branches throughout the country, can give greater facilities for the transmission of funds, and many newly formed companies, as a matter of course, choose the banks which offer such facilities. The result is that, while a firm like Rothschilds may bank with Messrs. Smith, Payne and Smiths, or a foreign government with the London Joint Stock Bank, the banking business of big commercial undertakings—news agents, coal merchants, provision dealers and the like (even that of the postmaster-general himself)—must needs gravitate towards the banks with numerous and widespread branches. What the ultimate effect of this movement must be is so obvious that there is no need to emphasize it. Bank directors and managers have recognized its meaning for some time past. Bank shareholders are beginning to realize it, as a comparison of the yield of the shares of the two classes of banks will clearly show. The real significance of the absorption of Smith, Payne’s by the Union Bank lies, we think, in the fact that it is the first outward and visible indication, on a large scale, that the policy of “splendid isolation” in London joint stock banking has had its day.—*London Economist.*



## SUCCESS IN BANKING

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A habit of carefully noting the details of every transaction should be cultivated. Minute observation is essential if costly mistakes are to be prevented. In law a man is presumed to be innocent until his guilt is legally established, but it is not so in banking. Inquiry as to papers, persons, notes and coin is always in order. A spirit of investigation is as necessary to the right kind of bank clerk as it is to the man of science. Slapdash methods are entirely out of place, and system must become second nature. Neatness and order are nowhere more essential than in every department of bank work.

As exactness is a characteristic of banking transactions, so a stricter compliance with habits tending to success in other lines of business is required of bank clerks.

Punctuality is especially to be commended. It is the rule of the New York clearing-house to impose severe penalties on banks failing to make prompt settlement of balances, and fines are assessed for tardiness generally. Though a clerk may be but a small part of a bank's machinery, his absence within required hours may possibly disarrange the workings of the whole mechanism. From a disciplinary standpoint, few things are more important in a bank than to be on hand at the appointed time.

Obedience to orders and rules is to be expected as a matter of course, but this does not imply that even a clerk is never to use his discretion and intelligence. "Theirs not to reason why" may be proper enough for soldiers, but the bank clerk who reasons why will be on safe ground. Rules are not inflexible. If a rule does not seem to fit a particular case, it will be prudent to consult a superior before acting. Banking cannot be carried on by automatons.—*Success.*

## MCGILL UNIVERSITY, 1902-1903.

## MONEY, BANKING AND THE FOREIGN EXCHANGES.

It is proposed to offer, in the winter Session 1902-3, a course of lectures on the above subjects, to be delivered weekly at McGill College. The first lecture will be given on Oct. 7th, and the course will include twenty-five lectures, concluding March 31st, 1903. The hour of the lectures will be 8.15 p.m.

The lectures will be delivered by Professor A. W. Flux, M.A., the recently appointed William Dow Professor of Political Economy. The arrangements in connection with this course have been made after consultation with the Hon. George A. Drummond and with Mr. E. S. Clouston, of the Bank of Montreal, and Mr. Thomas Fyshe, of the Merchants Bank of Canada. Assurances of support have also been received from the President and Council of the Montreal Board of Trade, and from a number of other leading bankers and business men of the city.

The subjects treated will include:—

The Nature and Functions of Money. Money as a Circulating medium and as a Guarantee of Solvency. Standard money and representative money. The coinage systems of the leading countries, and the modes of regulating issues of paper currency in all the principal commercial countries of the world; the objects aimed at, and the fitness of actual arrangements to attain them. Inconvertible paper currency and its dangers.

The relation between the quantity of the circulation and the general price-level. Measurement of changes in general prices. Index-numbers as used in practice. How far do they gauge what it is desired to measure? The actual course of prices during the last century and a brief *résumé* for earlier times.

The nature of the services rendered by banks to trade and the dependence of trade on banking efficiency. Clearing-houses and their organisation. Comparison of the functions of banks: England, Continental Europe, etc.

Nature of commercial crises. Sketch of history of crises and consideration of their recurrence, with the adaptability of banking organisation (in England, Canada, and the United States at least) to meet them.

The features determining the level of the foreign exchanges and variations of that level. Effects of the movement of the discount rate in particular. Gold exchanges; silver and paper exchanges. Bimetallism and its aims. Some account of exchange customs, peculiarities of quotations, etc. The Balance of Trade and the Balance of Indebtedness between nations.

It is hoped that this course will prove both attractive and useful to clerks in banking and other offices in this city. Students will be invited to write short essays on subjects set at about fortnightly intervals, and submit them for criticism by the lecturer. An opportunity for discussion of points of interest and difficulty brought out in this way will be afforded after the lectures. Special attention is called to this feature of the work, which has been found extremely helpful elsewhere.

The fee for the course will be \$10.00, payable in advance to the Bursar of the University.

J. A. NICHOLSON, M.A.,

*Registrar.*

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# JOURNAL

OF THE

## CANADIAN BANKERS' ASSOCIATION

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JANUARY—1903

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### EDITORIAL.

"Your Executive Council can see no reason for any deviation from that provision of the Bank Act which limits the circulation of the banks to the amount of their paid-up capital."—From Annual Report.

A Question  
of  
Circulation.

\* \* \* \* \*

Fully recognizing that the supply of notes now possible of issue by the chartered banks of the Dominion may, in the coming years, prove inadequate for the requirements of a prosperous and growing country, the Canadian bankers have, in the above pronouncement, made at the annual meeting of the Canadian Bankers' Association, signified what will be the method adopted by them when called upon to meet such an emergency as a dearth of currency.

Satisfied with the Bank Act, and knowing that the security for the redemption of notes in circulation should at all times afford ample protection to the public, the bankers have virtually announced their intention of supplying the required currency by making large additions to the banking capital of the country.

Few will be found to question that it is a wise and prudent resolve on the part of those most interested in maintaining the good reputation of the Canadian banks. The larger the stock of a shareholder in the success of a financial institution, the greater will be his desire to have its affairs administered by prudent and capable men.

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On both sides of the Atlantic ocean the constantly recurring failures of private banks illustrate the changing condition of financial affairs. The day of control by some one individual of the monetary resources of all his neighbors has passed, or is passing, away, and the tendency of the times is in the direction of the formation of powerful joint stock companies capable of transacting business on the largest scale, and with resources of such magnitude that no ordinary losses can shake their stability.

And with the passing of the private bank we also are beginning to see the last of the "sole executor and trustee," to whose business ability and faithfulness great fortunes have frequently been entrusted without consideration on the part of the testator of the changes caused by death or financial disaster overtaking the said sole executor.

In the place of the old family private banks we have the modern mammoth financial corporations, and as successors to the executors and assigns of the past we have the trust company of the period, with its perfect mechanism ensuring absolute security to the widows and orphans.

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The early retirement of Mr. J. H. Plummer from the banking arena has not diminished the interest he has always displayed in younger bank officials all over the country. He is now endeavoring to organize an institute, so that the associate members of the Canadian Bankers' Association may enjoy the opportunity for "lectures, discussions, competitive papers, and examinations," provided for in the by-laws, with the drafting of which Mr. Plummer had so much to do. At the annual general meeting

of the Canadian Bankers' Association, Mr. Plummer, when thanking those present for a resolution expressing gratitude for his past services to the Association, said that the work he had performed had been entirely a labor of love. It is pleasing to note that the banker in question intends to continue laboring for the promotion of the welfare of the associate members of the organization he has so long and faithfully served.

The "Questions on Points of Practical Interest," appearing in this number of the JOURNAL, have been answered under the kindly supervision of Mr. Plummer.

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Banks, like other corporations and individuals, naturally dislike to resort to the Courts with all the attendant expense and uncertainty accompanying final appeals for decisions upon questions of law and fact. Yet it is in the public interest that disputes requiring settlement in order that precedents may be established for our future guidance, and for the prevention of costly litigation, should occasionally be carried to the highest court of appeal.

All our banks are interested in the recent legal decision, published in this issue, which establishes the position of a bank paying a raised certified cheque; and also in the equally important judgment emphasizing the necessity of great care being taken by policy holders, when making claims upon insurance companies, to see that the notification of loss and also the transfer of the policy are properly made and that everything that is legally requisite is done.

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The wisdom of being prepared for any and every emergency is irrefutable, and the caution displayed by Canadian bankers in preparing for a period when the demand for currency may outrun the supply is an evidence of sagacious management.

But the Monthly Return of Note Circulation, issued by the Canadian Bankers' Association in October and November last, would seem to show that any lurking fear of a

currency famine during the past autumn was unnecessary. The majority of the banks, when viewing the outward flow of their own notes, carefully hoarded those of other banks for use in case of need, and the total amount held in this way constituted a reserve supply of several millions of dollars.

However, the outcome of the slight anxiety displayed has resulted in a large increase of banking capital, thus affording more circulation for the great and growing West.

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No more cheering bit of evidence as to the splendid prospects of Manitoba and the North-west Territories could possibly be furnished than the figures found in the excellent **Our** report of the Winnipeg Sub-section of the Canadian **Magnificent** Bankers' Association. The method of obtaining **Territories.** information employed by the bankers comprising this useful body is worthy of the commendation passed upon it by the bankers of the Eastern cities.

During the month of August, crop reports were obtained from one hundred and sixty correspondents, whose predictions regarding the crops have proved most reliable. With a yield of wheat and coarse grain amounting to 127,000,000 bushels; with increased elevator capacity; with satisfactory immigration from Europe and the United States, and clearing-house returns increasing in volume as the result of general growth of business, the people of Winnipeg have good reason to be proud of the Province of Manitoba, and may be pardoned for preferring their country to any other part of the Dominion, on account of its singular autumnal beauty and its superior natural advantages.

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The earnings of the majority of Canadian and American banks during 1902 have exceeded those of any previous year, and it is probably due to this fact that their shares are quoted **Bank Stock in** at figures seemingly out of proportion to the in- **the United** come on the market value of same. Readers of **States.** the JOURNAL, who may be desirous of comparing the income derived from investments in the stocks of the National banks of New York, and those of the Canadian banks, will find the following table, compiled by the *Bankers' Monthly*,



and published in Chicago last month, most interesting. The results were based on the market valuations of the stocks in December. It is admitted that many of the banks named are earning enough money to enable them to declare much larger dividends. However, like their prudent brethren on this side of the boundary line, the New York bank managers probably prefer to prepare for periods of depression by adding to their reserve funds in prosperous years what some shareholders would like to receive in the shape of dividends.

	Par.	Last Sale.	Div.	Inc.
Astor National .. . . .	100	502	20	3.98
American Exchange .. . . .	100	275 $\frac{1}{8}$	8	2.91
Bank of New York. . . . .	100	350	10	2.86
Chemical. . . . .	100	4,315	150	3.48
Chatham. . . . .	25	354 $\frac{1}{2}$	16	4.51
Central .. . . .	100	185 $\frac{1}{2}$	8	4.31
Chase. . . . .	100	389	12	3.09
East River .. . . .	25	171	8	4.67
Fourth. . . . .	100	235	7	3.00
Fifth .. . . .	100	254	6	2.36
First .. . . .	100	790	20	2.53
Gallatin. . . . .	50	428	12	2.80
Garfield .. . . .	100	1,700	12	2.35
Hanover. . . . .	100	650	10	1.54
Irving. . . . .	50	235	8	3.40
Importers & Traders .. . . .	100	679	20	2.95
Leather Manufacturers .. . . .	100	263 $\frac{1}{2}$	10	3.795
Lincoln .. . . .	100	845	12	1.42
Liberty .. . . .	100	325 $\frac{1}{2}$	20	6.20
Merchants .. . . .	50	186 $\frac{1}{4}$	7	3.76
Mechanics .. . . .	25	295	8	2.73
Market & Fulton .. . . .	100	270	10	3.70
Merchants' Exchange. . . . .	50	165 $\frac{1}{8}$	6	3.63
Mercantile .. . . .	100	333	6	1.79
New Amsterdam National .. . . .	100	680	32	4.70
National City. . . . .	100	302 $\frac{3}{4}$	6	1.98
National Butchers' & Drovers' .. . . .	25	116 $\frac{1}{4}$	..	....
National Bank Commerce .. . . .	100	333 $\frac{1}{4}$	8	2.40
National Broadway .. . . .	25	330	12	3.64
National Bank of North America .. . . .	100	240	8	3.33
National Bank United States. . . . .	100	130	..	....
National Citizens .. . . .	25	205	6	2.93
National Shoe & Leather. . . . .	100	175	4	2.29
National Park. . . . .	100	648	15	2.31
New York National Exchange .. . . .	100	270 $\frac{1}{2}$	8	2.90
New York County National. . . . .	100	1,515	50	3.30
Phenix .. . . .	20	134 $\frac{7}{8}$	3	2.22
Seventh .. . . .	100	165	..	....
Second. . . . .	100	485	12	2.475
Seaboard. . . . .	100	450	6	1.33
United National. . . . .	100	133	..	....
Western .. . . .	100	623 $\frac{1}{2}$	..	....

The Secretary of the United States Treasury, in his annual report, refers to the vexed currency question, the possibility of making deposits of Government money in the banks without security, and the means of increasing circulation. Among the most important of the themes discussed by Mr. Shaw is circulation, and Canadian bankers, in the light of recent events at the Toronto meeting of their Association, cannot have read that part of the Secretary's address relating to the absolute necessity of additional bank note circulation for the United States, without feeling interested therein.

Over the  
Border.

The Secretary of the Treasury says:—

"Recent events enforce the conclusion that our banking system is imperfect. During certain months of the year interest rates dropped dangerously low, dangerous in the sense that speculation was invited thereby. When the time arrived for moving crops rates advanced alarmingly high. Meantime the price of Government bonds rendered the maintenance of national bank circulation unprofitable, and this class of currency was retired with great rapidity."

Secretary Shaw tells how by offering extraordinary inducements to national banks at the time of greatest stringency he was able to secure about \$26,000,000 increase of circulation. He points out that while during the year ending November 20th new banks were chartered with a capital of over \$30,000,000 and the capital of existing banks was increased more than \$43,000,000 the increase in circulation was only about \$20,500,000. Thus it is plain that, but for the inducements offered by the department, national bank circulation would have contracted during the year. The Secretary goes on:—

"The reason for this tendency toward contraction is apparent. Government bonds are scarce, and those outstanding are held in large part by trust estates, savings banks and insurance companies, and are not available for circulation.

The frequent purchase and retirement of bonds render the amount available for circulation gradually less, while a rapidly growing population, additional banking facilities and expanding trade suggest the need of an ever increasing circulation. I therefore believe the time has arrived when it will be necessary to adopt one of two policies, either the Government debt must be perpetuated as a basis for national bank circulation, and additional bonds issued as occasion may require, or some other system must be provided. . . . Additional circulation will be necessary. Outstanding government bonds are inadequate to secure it, even if their market value would justify their use by the banks. It is even doubtful if national bank currency based on government bonds can be made advantageous to banks.

I see no objection to the issuance of circulation based upon general credits if properly safeguarded. Neither do I believe it necessary to make currency thus issued a first lien upon assets. A very small tax upon circulation would be sufficient to cover any possible loss. When thus guaranteed and primarily redeemed by the Government at the expense of the bank of issue, currency based on general assets would be as acceptable and as secure as the present national bank notes based on specific assets.

I doubt, however, the wisdom of making provision for the issuance of credit currency to the limit of the bank's capital. Not that I would fear unfortunate results, but in all financial legislation the greatest caution must be exercised lest the currency be suddenly and unduly inflated."

The Secretary of the United States Treasury touches briefly upon the subject of branch banking. He says that what he is pleased to call the "peculiar conditions" of the neighboring country would not be conserved by adopting the policy recommended by the advocates of branch banking, and he frankly states that he is not prepared to recommend the system with which Canadians are so familiar. Mr. Shaw says that the provision of an elastic currency available in every banking community, and sufficient for its needs will answer all purposes. It will be noted that Mr. Shaw, while not prepared to adopt the Canadian method of permitting banks to circulate notes to the extent of their paid-up capital, fails to find any objection to the issuance of circulation based upon "properly safeguarded general credits." Canadian bankers may find it difficult to explain what is meant by this phrase, but without claiming that the bank note circulation system of this Dominion is just what is wanted by our neighbors, we may be pardoned for thinking that they could not do better, when making a change in their system, than to make currency issued by banks a first lien upon their assets.

At the meeting of the Canadian Bankers' Association, held in November last, a possibility of the expansion of the trade and commerce of this country making necessary a change in our circulation system, was discussed. Some of those present inclined to the belief that the issue of bank notes, if limited to the amount of paid-up banking capital, might, in the near future, prove inadequate for the requirements of the country. But no one was found to advocate any deviation from that excellent provision of The Bank Act which limits the circulation of our banks to the amount of their paid-up capital. It is quite possible that Secretary Shaw, who must

of necessity know what the "peculiar conditions" of his country require, may be right in thinking that branch banks in the United States would not provide the elastic currency that is found so absolutely necessary. Yet, we do not hesitate to humbly recommend to our neighbors, admitting as they now do that their banking system is imperfect, some further study of Canadian methods. A conference of leading bankers on both sides of the border might be of mutual benefit. Canadian bankers would, undoubtedly, learn something from their practical American friends, who, in their turn, might see something to admire in the banking system that, up to the present time, has answered so admirably all the requirements of a great and growing country.

Is it too much to expect that at a gathering of bankers and political economists, selected from the intensely practical and wide-awake people of the American continent, much would be accomplished. Possibly a great stride might be taken in the direction of effecting reform in the banking system which the Secretary of the United States Treasury condemns, and in such a consummation Canadians cannot but be interested.

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The advocates of a system of annual examination by the Government into the affairs of our chartered banks will be interested in the outcome of an enquiry made by *The Chicago Banker* of Comptroller Ridgeley as to the accuracy and usefulness of bank examinations and reports of conditions made by appointees of the United States government.

The query was made because of the surprises furnished by the failure of the Central National Bank of Boston. It seems that this bank had been paying 6 per cent. dividends for years, and reporting a surplus of undivided profits varying from \$125,000 to \$300,000. After the collapse of the institution it developed that of the reported assets of \$3,789,911, \$1,184,103 was doubtful or worthless, with a probable value of but \$444,963. The comptroller's answer to the question of the usefulness of bank examinations follows:

*Editor Chicago Banker:* "The latitude of bank directors in estimating the value of loans is as wide as the difference in judgment as to the worth of such paper, and they have a right under

the law to exercise their judgment in declaring dividends, subject only to the restrictions prohibiting payment if losses have been sustained or bad debts contracted equal to or exceeding undivided profits on hand. In such case a dividend cannot be declared without violation of law, and every director who participates in or assents to any violation of law is liable in his personal and individual capacity for all damages to the bank, its shareholders, or any other person as a result thereof.

"It is difficult to estimate with accuracy the exact value of the assets of a bank, and this is true with respect to insolvent associations as well as of active banks.

"I am unable to advise how the ordinary reader is to determine the solidity of a bank from its published report of condition except by a careful analysis of the figures shown in the report. It is impossible to determine the exact condition of a bank without an examination of its loans and discounts and its securities. This information is communicated to the comptroller only through the reports of bank examiners."

The opportunities to ascertain the exact condition of a bank are infinitely greater when the work of inspection is entrusted to an official of the bank who is familiar with its business affairs and fully alive to the fact that the directors and general manager rely upon his judgment and sagacity to detect any weakness in their customers, and to determine the value of the paper under discount.

The deplorable revelations in Australia some years ago exposed the uselessness of government examinations of banks, often a mere auditing of accounts, as a means of averting serious disaster to the depositors.

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The news of the death of the amiable and highly respected manager of the Bank of British North America at Quebec, was received by his numerous friends of the banking fraternity with genuine sorrow. His demeanour to all those with whom he came in daily contact was distinguished by courtesy springing, not so much from studied politeness, as from a mild and gentle heart. His simple and natural manners made of him a most engaging companion. To grieve at the loss of a good husband and fond father is natural, but it may in time serve to comfort the widow and children of an estimable gentleman, to know that he possessed the affection and esteem of all his friends.

**The Late  
David  
Cumberland.**

Mr. Cumberland was born at Norwich, England, in 1851. He entered the service of the Bank of British North America in 1873, and, during his thirty years of service in that institution, was stationed at Montreal, St. John, Kingston, London and Quebec, and in each of these cities his friends and acquaintances, not hitherto informed, will regret to hear of his untimely death.

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After serving the Eastern Townships Bank for forty-one years as its manager, Mr. William Farwell now occupies the presidential chair of that institution. Mr. Farwell was born at Presentation Compton in 1835. From 1852 to 1860 he was to Mr. William employed in mercantile pursuits, but in September of Farwell. the latter year he accepted a position in the Eastern Townships Bank as assistant cashier. In 1861 he became cashier of the bank, and in 1880 his title was changed to that of general manager. A few months ago, upon the retirement of Mr. Heneker from the presidency, Mr. Farwell was asked and consented to occupy the vacant position.

The following address, presented to Mr. Farwell by Mr. Jas. Mackinnon on behalf of the staff, not only testifies to the respect and affection they feel for their former chief, but it incidentally serves as a reminder of the growth and progress of the institution committed to his care so many years ago. The address is thus worded:—

*"Dear Mr. Farwell,—Upon the occasion of your resigning the position of general manager of the Eastern Townships Bank, we, the officers thereof, desire to express to you our appreciation of your able and successful administration, extending over a period of forty-one years, during which the institution has greatly extended its sphere of usefulness and influence, its capital having increased from two hundred thousand to two million dollars, and its staff from four to ninety members. Especially do we desire to recognize the harmonious relations which have always existed, and the courtesy and consideration which you have ever shown to us.*

*"That your long service should find so fitting a recognition in your election to the office of President, the highest position the Bank has to offer, is a source of pleasure to us, and we tender to you our sincere congratulations. We beg your acceptance of the accompanying watch as a slight but tangible proof of our esteem, and we trust that you may be long spared to fill this new position and enjoy many years of well-earned happiness."*

It must also be a source of much pleasure to Mr. Farwell to have been assured at the meeting of his staff that, during his long and useful career as General Manager, he has been regarded by each one of them as a personal friend.

J. K.

# PROCEEDINGS OF THE 11TH ANNUAL MEETING OF THE CANADIAN BANKERS' ASSOCIATION

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THE annual meeting of the Canadian Bankers' Association was held at the Parliament Buildings, Toronto, on Thursday, the 13th November, 1902.

It was moved by Mr. H. Stikeman, and seconded by Mr. B. E. Walker, that, on account of the illness of the President, Mr. E. S. Clouston, the chair be taken by Mr. D. Coulson. Carried.

Mr. Coulson took the chair at 11 a.m.

The following members were present:—

BANK	REPRESENTED BY
The Quebec Bank . . . . .	Chas. C. Smith
" Bank of Nova Scotia. . . . .	H. C. McLeod
" Bank of Montreal. . . . .	Angus Kirkland
" Bank of British North America . .	H. Stikeman
" Bank of Toronto. . . . .	D. Coulson
" Molsons Bank . . . . .	Jas Elliot
" Eastern Townships Bank . . . . .	Jas. Mackinnon
" Union Bank of Halifax . . . . .	E. L. Thorne
" Banque Nationale . . . . .	N. Lavoie
" Merchants Bank of Canada . . . .	Thos. Fyshe
" Provincial Bank . . . . .	T. Bienvenu
" Bank of Yarmouth . . . . .	T. Johns
" Union Bank of Canada . . . . .	Frank W. Strathy
" Canadian Bank of Commerce . . . .	B. E. Walker
" Royal Bank of Canada . . . . .	E. L. Pease
" Dominion Bank . . . . .	T. G. Brough
" Bank of Hamilton . . . . .	F. J. Gosling
" Banque d'Hochelaga . . . . .	M. J. A. Prendergast
" Bank of Ottawa. . . . .	Geo. Burn
" Imperial Bank of Canada. . . . .	D. R. Wilkie
" Traders' Bank of Canada . . . . .	H. S. Strathy
" Sovereign Bank of Canada . . . . .	D. M. Stewart

The following associates were also present, and signed the roll at the meeting:—J. H. Plummer, L. C. Owen, Wm. Maynard, F. H. Mathewson, Francis Cole, J. Morris, G. E. Parkes, Geo. Hague (Hon. President), D. Hughes Charles, E. C. Robarts, E. A. Wylde, D. C. Morrison, E. B. Andros, Clarence A. Bogert, H. J. Bethune, J. J. Adam, Jas. Brydon, R. S. Williams.

Mr. J. T. P. Knight, Secretary of the Association, acted as secretary of the meeting.

On motion of Mr. Burn, seconded by Mr. Strathy, it was resolved:

That the minutes of the last annual general meeting of the Association, held in the City of Montreal, on the 14th November, 1901, as of record in Volume 9, No. 2 of the JOURNAL, be taken as read and confirmed.—Carried.

#### REPORT OF THE EXECUTIVE COUNCIL.

The Secretary read the report of the Executive Council, which was as follows:—

The Executive Council beg to report as follows regarding the work of the Association during the year:—

In the last report submitted to you by the Executive Council, reference was made to the responsibilities imposed upon the Association by Parliament in connection with the supervision of the bank note issues. Since the last annual meeting the circulation accounts of every chartered bank in the Dominion have been inspected, as required by sub-sec. E of By-law 13. The figures of each bank's return of note circulation, as rendered to the Association, have been compared with the books of the bank, and a report on the result of the examination duly made to the President, and by him submitted to the Executive Council. There is so little variation in the system of keeping note accounts at the banks that your Executive Council are not prepared to recommend any plan for making the records uniform. From the record of the issue of notes received from the banks of the Dominion, some interesting facts and figures have been gathered. The tabulated statement of the various issues from the time of incorporation of the oldest banks gives evidence of the small percentage of notes of the early issues now outstanding. The outstanding amounts of the early issues of Canadian bank notes show the proportion of said amount to the total sum issued to be about one-half of one per cent. The tables compiled in verification of this calculation are now in the possession of the Secretary, should any member desire to examine same.

The statement of circulation, forwarded monthly to the chief executive officer of each bank, has doubtless been closely scrutinized during September and October.



Fears have been expressed that the issue of bank notes would prove inadequate for the requirements of the country in such a prosperous year as the one now closing. The demand for currency has been heavier than in the autumn of 1901, but your Executive Council can see no reason for any deviation from that provision of the Bank Act which limits the circulation of the banks to the amount of their paid-up capital. The Government will be asked, if it should ever be found necessary, to supplement the supply of the chartered banks' currency with legal tender notes of suitable denominations.

#### JOURNAL OF THE ASSOCIATION

The Executive Council wish to express their earnest appreciation of the services rendered to the Association by the Editing Committee of the JOURNAL. It is with regret that your Council announce the resignation of Messrs. Plummer, Henderson and Hay.

Under the supervision of Mr. J. H. Plummer and his colleagues of the Editing Committee, the JOURNAL has attained a high standard of excellence, and it is to be hoped that the reputation of the JOURNAL may be maintained by their successors in office.

The October number was produced under the editorial management of the Secretary, and your Executive Council are now endeavouring to make arrangements for its future publication.

Your Executive Council, realizing that the work entrusted to the Association by the Government will require their constant care and supervision, feel that the object of the Association referred to in by-law No. 11 may be unavoidably neglected by them. They therefore recommend the appointment of a committee from among the associate members to consider some plan whereby associates may enjoy the opportunity for "lectures, discussions, competitive papers, and examinations" referred to in the by-law mentioned.

Your Executive Council would also recommend that a meeting of the Associates be held at the close of this meeting for the purpose of discussing this suggestion, and that at said meeting a committee of associates be appointed and that the recommendations of such committee be submitted at the next meeting of the Executive.

#### CLEARING HOUSE

Governed by the rules and regulations respecting clearing houses contained in the Act to incorporate this Association, the chartered banks doing business in the cities of Montreal, Toronto, Halifax, Hamilton, Winnipeg, St. John, Vancouver, Victoria, Ottawa, Quebec and London are now working in unison, save for such variation in the local rules of each clearing house, which the law allows the governing body to make.

#### FINANCIAL STATEMENT

The statement appended hereto shows the financial position of the Association as at September 30th last:

## CANADIAN BANKERS' ASSOCIATION

STATEMENT AS AT SEPTEMBER 30TH, 1902, AUDITED

REVENUE		EXPENDITURE.	
Members' dues, 1902-3 . . .	\$6,875.00	Charges account . . . . .	\$7,501.23
Interest . . . . .	16.95	Interest on overdraft. . . .	11.90
Bal. from Sept. 30, 1901. . .	797.80	Balance in bank . . . . .	176.62
	<hr/>		<hr/>
	\$7,689.75		\$7,689.75

Audited and found correct.

(Signed), J. GILLESPIE MUIR  
 " TANCREDE BIENVENU

During the session of Parliament the Association gave careful attention to all measures introduced in both the Senate Chamber and the House of Commons, the character of which seemed likely to prove prejudicial to the interests of banking and commerce.

THE CHAIRMAN—The suggestion as to the associates and making these meetings more interesting to them is quite an important point. The idea embodied in the report is that the associates should take charge of and have meetings at which they may discuss matters which, perhaps, would not be discussed at general meetings.

MR. H. C. McLEOD asked for further information in connection with the bank note circulation, and the chairman instructed the secretary to furnish Mr. McLeod with copies of the reports on circulation, and stated that all particulars regarding the earlier issues of notes of chartered banks were in the possession of the Minister of Finance.

MR. WILKIE—I rise to move the adoption of the report. I have to say first, however, that we all hope to see Mr. McLeod on the Executive. I have no doubt that any information that is required will be willingly furnished to the banks who are members of the Association.

I regret exceedingly, as all must do, that Mr. Clouston's illness this morning has prevented him from being present at this meeting. I do not know whether Mr. Clouston has sent an address, but we will hear it later on if he has. Mr. Clouston has been of great service to the Association during the past year, and ever since he has been our chief, and, as a representative of the largest bank in the Dominion, I think it was a very fitting thing that he should be recommended for re-election on the present occasion as a recognition of his past services.

I have now much pleasure in moving the adoption of the report of the Executive Council.

MR. STIKEMAN—I have the honor to second the motion that the report be adopted.

The report was then declared adopted.

#### REPORT OF WINNIPEG SUB-SECTION

The Secretary then read the report of the Winnipeg sub-section as follows:

*To the President and Members, Canadian Bankers' Association:*

GENTLEMEN,—We beg to present the annual report of the Winnipeg sub-section of your Association.

The annual meeting was held in Winnipeg on the 9th June last, when Mr. F. L. Patton, Manager of the Dominion Bank, was re-elected chairman, and Mr. MacGachen, Manager of the Bank of Montreal, was re-elected secretary.

This sub-section obtained crop reports from 160 correspondents at points in Manitoba and the Territories during August, which were found useful at the time, and which results have since proved to have been thoroughly reliable.

The acreage under wheat in Manitoba and the Territories was about 2,600,000, the yield being about 24 bushels to the acre; the harvest this year was again most bountiful, producing 64,000,000 bushels of wheat in Manitoba and the Territories (of which over 65% is now threshed), or a total yield of wheat and coarse grains amounting to 127,000,000 bushels.

During the year the capacity of country elevators in Manitoba and the North-West Territories has been increased by about 4,000,000 bushels, making our total elevator capacity 25,000,000 bushels (including lake terminals).

The large and increasing crop yields of the past two years have greatly stimulated business of all kinds, and have induced a large immigration, estimated at 67,000 people, since the first of the year, divided as follows:—

Canadians .. . . .	12,264
Returning Canadians.. . . .	2,296
Americans .. . . .	8,923
English .. . . .	6,493
Germans .. . . .	5,371
Scotch .. . . .	2,818
Ruthenians .. . . .	6,218
Italians .. . . .	1,397
Irish .. . . .	1,301
Swedish .. . . .	2,074
Norwegian.. . . .	2,701
Other nationalities .. . . .	15,144

The long expected overflow of farmers from the Western States is now commencing to assume large proportions.

A very large amount of our lands have been purchased by Americans and others with a view to settlement. The Canadian Pacific Railway report sales during the first ten months of this year amounting to 1,696,370 acres sold for \$5,858,167, against 830,922 acres sold for \$2,643,073 during the year 1901.

The volume of business passing through the local clearing house is steadily increasing, clearings for the first ten months of this year being \$141,900,000, as against \$134,000,000 for the whole of last year. This increase in volume makes it necessary to keep larger reserves of legal tenders for settling purposes, and the members of this sub-section again desire to represent to the Canadian Bankers' Association the necessity of urging upon the Dominion Government the desirability of an arrangement being made whereby the banks doing business here can transfer legal tenders by wire between Winnipeg and the East.

As the volume of the autumn crop movement in Manitoba and the North-West Territories is rapidly assuming large proportions, resultant on an increased wheat acreage, and necessitating heavy demands on the banks for currency to meet grain disbursements, it is becoming more and more self-evident that the question of circulation requirements is reaching a critical stage. Redemption of bank bills through our clearing house practically ceases for some weeks at this season of the year, the scarcity of bills causing considerable inconvenience, mixed bank notes and Dominion notes being paid out by the banks indiscriminately.

General trade in the Province shows a material improvement over former years, and is steadily developing in volume. Numbers of branch establishments of Eastern and Southern houses have opened in Winnipeg during the year, and the city and province generally are experiencing an era of prosperity.

F. PATTON, Chairman.

A. F. D. MACGACHEN, Secretary.

THE CHAIRMAN—Mr. Plummer may possibly have some remarks to make as to the JOURNAL and its future.

MR. PLUMMER—I think all I can say on behalf of the Committee of the JOURNAL is that we disposed of our accounts before the end of the year; that our bills were paid by the Association, and that we ceased to have any active interest in the JOURNAL. We were very sorry, indeed, to be cut off from the work, but for many reasons it became absolutely impossible for us to continue. We have no report to make, because, as a matter of fact, the whole business was wound up sometime in the summer, and turned over to the Association.

THE CHAIRMAN—Owing to the unfortunate illness of the President and his consequent absence from the meeting, I will ask Mr. Knight, the Secretary, to read the President's address.

The Secretary then read the address as follows:—

ADDRESS OF THE PRESIDENT

The year that has elapsed since our last meeting has witnessed a further remarkable expansion in all branches of Canadian trade and commerce, in which the business of banking has had its due share. It has been a year of no untoward incident in the domain of mercantile affairs. The prosperity enjoyed in bountiful measure since 1897 continues unabated, and no clouds are yet perceptible on the horizon, save, perhaps, an undue and speculative desire for financial expansion to anticipate the profits that still lie in the future. On the contrary, the signs from which encouragement and hope spring are abundant. A bountiful harvest has been safely gathered, particularly in our North-west, and is rapidly being carried to market, thanks to the liberally increased facilities provided for its transportation. The last returns show that the amount of grain moved to date this year exceeds by nearly forty per cent. the total for a similar period in 1901. Labor is fully employed; manufacturing industries are working well up to their capital; immigration is increasing at a rate which prompts the hope that we are at last succeeding in solving the problem of populating the North-west; new markets for our products are being exploited and old markets enlarged; means of transportation are being supplied and improved. Indeed, were one disposed to dwell on the possibilities of the future in the way of material development and prosperity, the field would afford a vast scope. Railway earnings, clearing-house returns, figures of foreign commerce, the failure list, bank statements, in a word, all the tests by which the material conditions of a country are judged, indicate that Canada is experiencing an exceptionally high degree of prosperity. Let me, however, briefly refer to some of the evidences of the progress already made.

The assets of Canadian banks now total the large sum of \$610,928,000. A year ago they were \$553,900,000. Ten years ago they were only \$291,600,000. We have more than doubled the volume of our business in a single decade. That the last twelve months have been profitable to us, the fact that surplus earnings, the Rest Account, has risen from

\$36,903,000 to \$41,130,000, bears convincing witness. Note circulation is a measure of the activity of the country's business. Ten years ago a bank circulation of \$34,000,000 was found adequate for the requirements of Canadian trade; a year ago \$56,000,000 sufficed, while to-day the margin available on the amount the banks are authorized to circulate must be exceedingly small. Two other items may be cited. The deposits of the public in the banks, which in 1892 were \$161,000,000 are now \$359,800,000, a ratio of increase truly marvelous when contrasted with the number, and comparatively slow increase, of our population. Commercial loans have risen to \$303,500,000 from \$286,000,000 a year ago, and are \$110,000,000 larger than 1892. At the present time the Canadian people have on deposit in our banks and loan companies no less than \$460,000,000, or about \$60 per head of population, a fairly substantial token of thrift and well-being. Our foreign trade amounted to \$414,000,000, as compared with \$377,000,000, the preceding year, and \$250,000,000 ten years before. Agricultural and dairy products must ever constitute the largest part of our export trade, but it is significant of our growing industrial importance that in the year recently ended we sold to other countries manufactures to the extent of \$18,500,000, or about \$2,500,000 more than in the preceding twelve months. If our great natural advantages in the shape of magnificent water powers, situated within easy reach of ocean transportation, are utilized to their fullest capacity, these figures can be increased to an enormous extent, and there is little doubt that the future wealth and greatness of Canada may be enhanced largely by a judicious development of our manufacturing resources.

The question of providing adequate circulation has come up for solution earlier than was anticipated even three or four years ago, in consequence of the extraordinary expansion of trade that has taken place. During this autumn we have nearly reached the limit of our note circulation as fixed by the Bank Act, namely, the amount of paid-up capital, and the question has been raised whether some modification of the present Act should not be asked for. At the time it was passed it was held that when a bank had exhausted its power of issue it might be taken as showing that the business had grown to an extent rendering it desirable that the bank should

furnish additional security to the public for both its deposits and circulation in the nature of increased capital. This, so far, has not been conformed to, but the time has come when the remedy indicated might reasonably be applied to meet this apprehended shortage of currency. I am convinced that no radical change in the fundamental principle of our currency system should be undertaken. More than that, I believe any legislation looking to the provision of easy facilities for inflating the currency will weaken the stability of the banks and tend to impair the system which has been established. It has been suggested that banks be permitted to issue circulation to the extent of their paid-up capital and their Reserve Fund, or a portion of it. What guarantee is there that a Reserve Fund is a concrete asset? A weak management may exaggerate it, and we know assets have shrunk to a startling extent when subject to the appraisal of new management. There is also the loss of the double liability which attaches to capital stock. Banking legislation is not framed for the circumstances of the moment, but is supposed to be founded on fixed and sound principles of finance, applicable to periods of stress and strain as well as prosperity. To base circulation on a Rest Account would be a departure, and would weaken a currency system which we consider one of the safest and most elastic systems in the world. Viewing the fact that the banking capital during the last twenty-five years has practically remained stationary, the remedy seems simple. If we do not choose to adopt it, then it should always be possible in emergencies to obtain notes from the Government by deposit of gold or Dominion notes, but this does away with the elasticity of the system, and if indulged in to any great extent will inevitably lead to periods of aggravated financial stringency, such as are not uncommon with our neighbors across the line. The opening of branches in hitherto unoccupied districts in the North-west (by facilitating the deposit of currency) will relieve the tension to some degree, but, if Canada advances as we hope and expect she will, I am afraid it is only a question of time when we may be brought face to face with the same condition of affairs again.

There is only one other matter I wish to refer to, and that briefly. The active condition of affairs makes it difficult for your executive to attend to more than the purely business

part of the Association, which has increased considerably with its new duties, and there is a grave danger that one of the most valuable objects of the Association, especially to the younger element, the literary side, may be neglected. It is therefore intended to appoint a committee to consider what steps should be taken to carry on that part as a separate branch.

MR. WILKIE—This is an opportunity for the associates to pass their opinion upon the suggestions of the President. There is a suggestion regarding the propriety of changing the system of circulation, and also a suggestion for the establishment of some sort of institution for the associates in which the cultivation of the study of banking could be encouraged.

MR. PLUMMER—If this is the proper time I would like to move the appointment of a committee to consider the formation of an association or institute to consist of the associate-members. Those of us who have been interested from that side, and, of course, I am only an associate myself, have felt very strongly, especially during the last few months, that the incorporation of a Canadian Bankers' Association by Act of Parliament and the imposition on it of certain definite duties respecting circulation and otherwise has made it impossible for the Association and its officers to carry forward the kind of work that we used to have among the associates when it was a voluntary association. I think we all have to recognize that fact. It is unfortunate that it is so, but that is the inevitable result of the incorporation of the Association. At least so it seems to me, and so it seems to a number of the members of the Bankers' Section, who discussed this at a recent meeting. Our feeling then was that under the shelter of the Association as a whole we might very well have an institute of bankers on somewhat similar lines to those in other countries, England and Australia, managed by a committee or an executive council taken from all ranks of the services and meeting at the same time as the Association, and, of course, supported in every way, financially and otherwise, by the Association. I think that the body could carry on a good deal more than the Executive Council have suggested in their report. If I remember the report aright, they speak of literary work, lectures and so on. I think the discussions we used to have among the associates on matters of practical banking should still be continued. It seems to me that the



Association itself is not exactly the place. A great deal can be done among the branch managers in the discussion of practical minor questions. I think it a great pity that that should be cut out, or that we should be limited to the points named in the report. I have always felt that the meeting together of our branch managers and other officers was very helpful indeed to the banks as a whole. We have felt it in our own bank. We have felt that we wanted our men to meet the managers of other banks; that it was a great thing from an educational point of view, and that from the practical side it rubbed off asperities and brought about a better state of feeling. In a business like ours, where we have to rely upon each other so much all over the country, I think that is a very desirable consummation. I think that probably, sir, it would be better for the Chair to name the committee, and I therefore move that the Chair be requested to appoint a committee for the purpose I have mentioned.

THE CHAIRMAN—I do not think that I am prepared to name a committee off-hand without some little consultation and consideration.

It was moved by Mr. Stikeman, seconded by Mr. Fyshe, that a vote of thanks be presented to the President for his very able address.

This motion was carried with applause.

The Secretary then read the following list of gentlemen recommended for election as officers of the Association for the ensuing year:

#### HONORARY PRESIDENTS

LORD STRATHCONA AND MOUNT ROYAL.....President Bank of Montreal  
 GEORGE HAGUE ..... Montreal

#### PRESIDENT

E. S. CLOUSTON.....General Manager Bank of Montreal

#### VICE-PRESIDENTS

DUNCAN COULSON.....General Manager Bank of Toronto  
 GEO. BURN.....General Manager Bank of Ottawa  
 H. STIKEMAN.....General Manager Bank of British North America  
 M. J. A. PRENDERGAST.....General Manager Banque d'Hochelaga

## COUNCIL

B. E. WALKER.....	General Manager Canadian Bank of Commerce
THOS. FYSHE.....	General Manager Merchants Bank of Canada
D. R. WILKIE.....	General Manager Imperial Bank of Canada
THOS. MCDUGALL.....	General Manager Quebec Bank
JAS. MACKINNON.....	General Manager Eastern Townships Bank
W. E. STAVERT.....	Manager Bank of New Brunswick
JAS. ELLIOTT.....	General Manager The Molsons Bank
P. LAFRANCE.....	General Manager La Banque Nationale
H. C. MCLEOD.....	General Manager Bank of Nova Scotia
T. G. BROUGH.....	General Manager Dominion Bank
E. L. PEASE.....	General Manager Royal Bank of Canada
E. E. WEBB.....	General Manager Union Bank of Canada
C. MCGILL.....	General Manager Ontario Bank
H. S. STRATHY.....	General Manager Traders Bank of Canada

## AUDITORS

T. BIENVENU.....	General Manager La Banque Provinciale
J. GILLESPIE MUIR.....	Chief Accountant Merchants Bank of Canada

## COUNSEL

Z. A. LASH, K.C.

## SECRETARY-TREASURER

J. T. P. KNIGHT

Moved by Mr. Walker, seconded by Mr. Elliot, that the Vice-President in the chair be authorized to deposit one ballot for the list as read by the Secretary.—Carried. The above gentlemen were then declared elected as the officers and council for the Association for the ensuing year.

## OTHER BUSINESS

MR. PRENDERGAST—Would it be out of place to suggest to the committee or the Association which is to be formed by its associates, to take up the question of trying to bring about a uniform rate of interest on deposits, as well as to look into the matter of minor profits.

Moved by Mr. Burn, seconded by Mr. Thorne, that the Association desires to place on record their appreciation of the labor and ability with which Mr. J. H. Plummer has acted as chairman of the Editing Committee, and they regret his retirement.

THE CHAIRMAN—I would like to say a word of appreciation of the committee that has just retired. I regret that we shall have to lose their services. It will be a work of some time and considerable education, I am satisfied to have the same knowledge and equipment in the future that we have had in the past.

The resolution was declared carried.

MR. PLUMMER—I beg to thank you very heartily, indeed, for this resolution. The work that I have personally been able to do for the Association and my fellow-bankers has been entirely a labor of love. I have not only enjoyed the work, but I have found a great deal of profit in doing it. As I said last night, having to deal with such questions as come up in the JOURNAL, and the direction of articles for the JOURNAL, and in the answers to questions, one has to read up a great deal, and it has really been very helpful to me personally. One thing I appreciated very much, and that is as chairman of the Committee I have been in contact with bankers all over the country. Not the senior men with whom I naturally come in contact otherwise, but with the younger men. The correspondence I have had with them has been particularly gratifying to me. I have appreciated very much being referred to several times and my judgment accepted in cases of dispute among the officers of different banks. It has always given me very great pleasure, indeed, to serve in that capacity and to feel that the younger men in the banks throughout the country have had confidence in my fairness and judgment. (Applause.)

This is the resolution I propose with regard to the question of an institution of bankers. I forgot, when speaking before, the point of the JOURNAL. It seems to me most natural that the publication of the JOURNAL should be entrusted to such an institute as that rather than to be carried on by the Association. It would then be on all fours with the practice elsewhere which has been found to work very satisfactorily indeed. It will relieve the Canadian Bankers' Association from a certain quasi responsibility for the sayings and statements of the JOURNAL, and at the same time enable the Association to use the JOURNAL as its official organ for the promulgation of notices of all kinds. The motion we have prepared is that the following be appointed a committee to consider and report to the Executive Council as to the

establishment of an institute of bankers in affiliation with the Canadian Bankers' Association, and, as to the future conduct of the JOURNAL : Messrs. Stikeman, Wilkie, Plummer, Stewart, or their proxies, and one associate from each of the following banks: Bank of Montreal, Canadian Bank of Commerce, Bank of British North America, Merchants Bank of Canada, Bank of Toronto, Bank of Nova Scotia, with power to add to their number. This committee to confer with the committee to be appointed by the associates.

The associates have been asked, as I understand the matter, to meet at the close of this meeting and appoint a committee to take up the matter. Our idea was that, if they think it well to appoint a committee, they should confer with the committee we are now appointing. At the same time this is so widespread, it contemplates associate members being nominated as representatives of the banks named, that it seems to me that the meeting of associates may probably pass what resolutions they think fit as their recommendations to be referred to this committee and accept this committee as theirs.

The monthly statement of bank circulation issued by the Association was then again fully and freely discussed, certain changes being recommended therein by Mr. Fyshe, supported by Mr. McLeod. The following gentlemen took part in the discussion: Messrs. McLeod, Fyshe, Wilkie, Mackinnon, Plummer, Walker, Johns and Hague.

Mr. Wilkie moved that the matter of changing the form of the Monthly Return of Note Circulation be referred to the Executive Council, and the meeting declared in favor of this course being pursued.

It was moved by Mr. Mackinnon, seconded by Mr. Stewart, that a vote thanks be tendered to the President, the retiring members of the Executive Council, and to the auditors for their services to the Association. This motion was carried with applause.

It was moved by Mr. Walker, seconded by Mr. Elliot, that the thanks of the Association be tendered to the Government of Ontario for the use of the chamber in which the meetings have been held. This motion was also carried with applause.

The proceedings of the 11th annual meeting of the Association then closed.

## THE HISTORY OF CANADIAN CURRENCY, BANKING AND EXCHANGE

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### CURRENCY AND EXCHANGE AS INFLUENCED BY THE UNION\*

ONE of the most important of the many questions which remained to be considered after the union of the Provinces, was that of a uniform currency standard throughout Canada, and, if possible, throughout British North America.

As we have already seen, though the rating of the dollar was the same in both Provinces, yet, since there were several legal tender coins, some of which were over-rated in the lower, and others in the upper Province, the basis of exchange was naturally determined by the cheapest legal tender in the Province where payment was to be made. There was, therefore, no common standard in practice as between the two Provinces. As the inter-provincial balance of trade was usually against the upper Province, exchange on Lower Canada, chiefly on Montreal, was at a premium in Upper Canada, and Upper Canada bank notes were at a corresponding discount in Montreal.

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#### \* Chief sources:

Journals of the Legislative Assembly of the Province of Canada, 1841-43.

The Provincial Statutes of Canada, Vol. I.

Remarks on Currency and Banking, by Nathan Appleton, Boston, 1841.

The Minute Books of the Town and City of Kingston, 1841-42. (Manuscript.)

The Banker's Almanac for 1851, Phila.

*The Monthly Review*, Vol. I, 1841.

*The Examiner*, Toronto, 1840-42.

*The Quebec Gazette*, 1840-42.

*The Chronicle and Gazette*, Kingston, 1840-44.

Had the balance of trade been in the opposite direction there would undoubtedly have been a discount on Lower Canadian bank notes in the upper Province, but as it was they were readily taken at par, or even at a premium, as a means of remittance to the lower Province. But a return of bank notes from the upper Province to Montreal did not necessarily mean a return of the capital invested there, through the accommodations extended to Upper Canadian customers of the Lower Canadian banks. In fact we find that one of the chief effects reported as due to the existing condition of affairs, was the locking up of the capital of the banks of Lower Canada in the upper Province, to the detriment of the trade of Montreal, and indeed of the whole country.

Though the evils due to the confused currency standards were real enough, yet they were not altogether responsible for the depressed condition of Canadian trade and the stringency of the money market. The prevailing dullness of trade had its foundation in the depressed condition of affairs in Britain, and the uncertainty of the commercial and banking situation in the United States.

Throughout the latter part of 1839 the banks in Montreal were loath to discount, and money continued to be very scarce. The Bank of Montreal dominated the situation in both Provinces, and the other banks were more or less constrained to follow its lead. When the banks curtailed discounts a strong check was put upon the development of business, and there was a marked scarcity of currency. The merchants, being the first to feel the strain, naturally blamed the banks for what they regarded as their selfishness in curtailing discounts and in keeping up the rates with a view, it was alleged, to increase dividends. Yet in those days, when every bank had to look to its own resources for support, they were justified, in the light of their late experiences, in exercising a conservative caution. And yet the rapid transitions from liberal to restricted discounting, which frequently occurred, tended sometimes to precipitate the very evils against which the banks were seeking to protect themselves.

In the upper Province the Bank of Upper Canada was loudly condemned for the stringent curtailment of its accommodations, especially when other speculations offered. The Commercial Bank, not being so extensively engaged in foreign

exchange, was much more favourably spoken of in this connection. Yet the practical sequel to this liberal policy, was an occasional public notice that delinquent debtors would have to be brought to account in the courts.

Since so many of the commercial and monetary difficulties of the time were actually due to the anomalies of the Canadian currency laws, and since so many others were popularly attributed to them, great interest was taken by all classes in the proposed plans for currency reform.

The new currency acts which had been passed in Upper and Lower Canada in 1839, had been disallowed by the Home Government, and the evils which they had sought to remedy remained. But in Upper Canada the act of 1836 was about to expire, and if that took place there would be a reversion to a lower standard of valuation of the British silver coins. To prevent an unintentional change in the existing condition of the currency, the act then in force was extended, during the session of 1840, for another two years. This would afford time for the passing of the new currency act, which Lord Sydenham had promised would be one of the first subjects to engage the attention of the Union Parliament. The renewal of the act of 1836 relieved the anxiety of the Upper Canadian banks, and of those merchants whose discounts, they were led to believe, depended entirely upon the maintenance of the existing rating of the British shilling.

On the other hand, the maintenance of the high value of the British silver in Upper Canada without any change in Lower Canada, did not please the financial interests of Montreal. It was urged by the *Montreal Transcript* that unless there was to be a speedy settlement of the currency standards for the whole of Canada the value of the British shilling should be raised from 1s. 3d., which was the Lower Canadian rating, to 1s. 3d., the rating in Upper Canada. About the beginning of March, 1840, a meeting of Montreal merchants and others was called to consider the currency question. They urged upon the Governor-General the necessity of introducing in the Special Council an ordinance on the subject, to take the place of the one disallowed by the Home Government. The Governor, however, declined to interfere in the matter, and in consequence met with much adverse criticism in the newspapers of the time, especially those of Montreal. In May,

1840, an article in the *Montreal Courier* went into the question in some detail. The people of Montreal, it is claimed, are placed in a very unfortunate position by the policy adopted by the Executive in continuing the Upper Canadian currency act while refusing to equalize the conditions in Lower Canada. It is pointed out that the Upper Canadian merchants have for years obtained their supplies from Montreal on credit. Without those accommodations, it is said, the upper Province would have been greatly hindered in its progress, or forced to seek assistance from the neighbouring American States. The usual payment received by the Montreal merchants had consisted of drafts upon the banks in Upper Canada, or the notes of these banks. These, however, the Montreal merchants can no longer accept at par, owing to the over-rating of the British shilling in Upper Canada. The same condition has resulted in the curtailment of the assistance formerly extended to the merchants in Upper Canada during the winter. The Montreal houses, by accepting drafts upon them from Upper Canada, had enabled the merchants there to purchase grain and other produce to be exported the following spring. It was said at the time that the Bank of Montreal alone had in its hands upwards of £25,000 in Upper Canadian bank notes, which, if presented to the banks, would be paid in British shillings at 1s. 3d., representing a loss to the Bank of Montreal of 2d. on the shilling.

On their side the Upper Canadian banks maintained that to lower the legal tender standard of the shilling would result in the loss of the coin then in the Province, and the consequent closing of the banks, upon whose accommodation the business of the Province absolutely depended. The same argument had just prevailed in New Brunswick, where the merchants had agreed to accept the shilling at 1s. 3d. with a view to increasing the silver in circulation in that Province. However, one chief reason for the very general valuation of the British shilling at 1s. 3d. *cy.*, was that by so doing it was made equivalent in value to the American quarter dollar, which was a matter of great practical convenience. But, as Mr. Hincks pointed out, this valuation would not have resulted in any serious derangement of the exchanges had the legal tender of the shilling been limited to the sum of say £5. The banks would then have been forced to use the American dol-



lar or the British half-crown. The latter being rated at 3s., which was very nearly its intrinsic value, the exchanges, both inter-provincial and foreign, would have remained normal.

As the currency laws stood, though the Commercial Bank had a branch in Montreal, and the Bank of Montreal virtual branches in Upper Canada through the agencies of the Bank of the People, yet these banks would not redeem their Upper Canadian issues at par in the Lower Province. And, indeed, they could hardly have acted otherwise, for exchange in Upper Canada sold, as a rule, at two and a half per cent. higher than in Lower Canada. Thus, if the notes of any of the Upper Canadian banks could be redeemed at par in Lower Canada, they would simply be collected and sent there for redemption in order to purchase exchange. The Montreal branch of the Commercial Bank had, for a time, tried the experiment of redeeming its notes in Montreal at three-quarters per cent. discount, but the run on the branch was so great that the bank was forced to discontinue the attempt and leave the cashing of its notes to the brokers at market rates. Thus, during the latter part of 1840 and the greater part of 1841, the discount of Upper Canadian bank notes in Montreal ranged from two to three and a half, and even four per cent.

At the annual meeting of the Board of Trade of Montreal, about the 1st of April, 1841, in addition to advocating freer trade relations with the United States, the hope was expressed that as soon as the Union Act came into force, a serious effort would be made to remedy the great evils of the currency situation. The Toronto Board of Trade also adopted a resolution to the same effect, and specially referred to the high rate of exchange on Montreal.

The first session of the Legislature of United Canada opened on the 14th of June, 1841, and those specially interested in the currency question lost no time in bringing the matter before the House. On June 21st a petition from the Montreal Board of Trade, with reference to the currency, was presented to the House of Assembly by Mr. Moffatt. After referring to the evils resulting from the currency laws then in force, they point out that the pound currency is a purely imaginary standard whose nominal value in sterling is at once false, inconvenient and misleading to foreigners. It is highly necessary that the whole of the British North American Prov-

inces should have one uniform currency, which, if possible, should be identical with that of Britain. It is admitted that the Board had formerly advocated the adoption of the American dollar as the legal standard. But lately circumstances have changed. The Americans have placed too high a value upon gold, with the result that there is now a silver currency famine. But, if the dollar is to be the basis of our currency, it is from the United States that all supplies of coin for Canada must come. The Board is therefore no longer favorable to the American standard. On the other hand, a provincial currency would not be expedient as it would lack flexibility, since there would be no large reservoir of coin in relation to which supply and demand might be regulated. There are, however, sufficient sovereigns brought out by the immigrants to supply the needs of trade and afford a certain surplus for export. The Board is therefore in favor of adopting the sovereign as the monetary standard, there being the special advantage of having a currency in harmony with that of the mother country and in accordance with the usages of the immigrants. The value of the sovereign should be placed at something between 24s. 6d. and 25s. cy. In accordance with this plan the Board prays to have an act passed changing the Canadian standard from Halifax currency to sterling, making the British sovereign the only unlimited legal tender and British silver legal tender to a limited amount.

Shortly after the presentation of this petition, further light was thrown upon the proposal which it contained by a paper on the currency situation, published in the *Commercial Messenger*, by Mr. J. T. Brondgeest, chairman of the Montreal Board of Trade. In addition to points brought out in the petition, it was stated that at the time of Lord Durham's administration the Board had expressed itself as in favor of the adoption of the sterling standard for all the colonies, but should that not be thought expedient then the adoption of the Spanish dollar and its half as the sole legal tender. This was before the proposal to make the British shilling the equivalent of the quarter dollar, as in Upper Canada. On the basis of its intrinsic value the British shilling is about equivalent to the shilling currency. But its commercial value as a token is determined by the rate of exchange; and with exchange at nine per cent. its value is about 1s. 2½d. In

Upper Canada, however, with exchange at 12 per cent. the shilling is of value, beyond the Province, only as a remittance to Britain. In Lower Canada the corresponding difficulty is to be found in the case of the French half-crown, so worn that there is no longer a visible inscription on it. Intrinsically it is worth from 2s to 2s. 6d., while it is rated at 2s. 9d. The only consolation is that these coins are limited in quantity. The paper money of Upper Canada is at two to four per cent. discount in the Lower Province. These conditions sufficiently indicate the urgent necessity for the adoption of a stable and uniform currency which is not over-rated. Any attempt to retain a coinage by over-rating it is futile, since the rate of foreign exchange simply rises to a corresponding degree, if not higher. He then outlines the proposal of the Board of Trade for the adoption of the sterling standard, with the sovereign as the sole legal tender, and to be reckoned as the equivalent of \$5. For purposes of fractional currency the shilling was to be taken as the equivalent of a quarter dollar, but, in common with other British silver, to be legal tender to the extent of £10 only. Copper coins were to be legal tender to the extent of one shilling. The silver dollar was to be rated at five to the pound and its fractions in proportion. It was proposed that the French half-crowns should be called in and redeemed by the Government at their rated value of 2s. 9d. All debts were to be paid on the basis of nine per cent. premium of exchange. Various other proposals, including that of a special provincial coinage, were passed in review, but criticized adversely. An additional advantage claimed for the sterling standard was that it had lately been adopted in other colonies, such as New South Wales and Jamaica. The example of the latter colony was much appealed to by those in favor of adopting the British standard. The currency of Jamaica had fallen so low that when the change was made, all outstanding debts and contracts were to be settled on the basis of £100 stg. for £166 13s. 4d. cy.

The Toronto Board of Trade also sent a petition on the subject of the currency, though not suggesting any special scheme for its reform.

In a carefully prepared article on the currency question in his paper, *The Examiner*, Mr. Francis Hincks, after reviewing the evils and difficulties of the existing situation, discussed

the possible remedies. In seeking a new standard it is inevitable that Canada should adopt that of some other country as she cannot support a separate currency of her own. It is no less necessary that there should be but one standard, experience having abundantly proved that in practice only one standard will be used. The choice of a standard lies between that of Britain and that of the United States. But the sterling standard, if adopted, would greatly interfere with the important trade relations between Canada and the United States. At present and for many years past, a great many Canadian bank notes have circulated in the neighbouring States, and have been taken in payment for imports. So long as they circulate in the United States they are greatly to the benefit of Canada. But the adoption of the sterling standard would destroy this circulation and curtail Canadian trade. Now, there are no corresponding advantages to be derived from the adoption of the sterling money, hence it would be advisable to adopt the silver dollar and its half as the basis of Canadian currency. The lower denominations of the decimal currency should be limited in their legal tender to ten dollars. If silver is adopted as the standard then gold should not be made a legal tender, but simply rated at a fixed value in terms of silver; thus the American eagle would be valued at ten dollars, and the British sovereign at 24s. 3d., which is as nearly as possible its value in the silver dollar. The establishment of such a stable basis will check that fluctuation in exchange of which so much just complaint is made.

Mr. Hincks' views, thus independently expressed, are of special interest, because when the currency question was introduced in the Legislature it was referred to the standing committee on currency and banking of which Mr. Hincks was chairman. From this committee came the currency act which was ultimately submitted to the Assembly.

In order to take advantage of the best experience and judgment on the subject, the committee framed a list of eighteen questions, which were submitted to the leading bankers and business men of the country, and their replies are given in an appendix to the report of the committee. From these we gather the trend of influential public opinion on the subject.

Of twenty-three replies, ten were frankly in favour of the adoption of the American decimal system. The chief reasons given were the close commercial and monetary relations of the two countries, and the practical impossibility of obtaining a supply of specie on short notice from any other source. Seven favoured the sterling standard on political or sentimental grounds, but admitted that the American dollar must be retained as a legal tender on account of the practical necessities of Canadian exchange. Two would retain the Halifax currency standard and rate all other coins in terms of it. Two were unconditionally in favour of the sterling standard. One of these was Mr. Brondgeest, whose views, as we have seen, found expression through the medium of the Montreal Board of Trade, and the other was Mr. Thos. G. Ridout, cashier of the Bank of Upper Canada, which had enjoyed up to that time exceptional advantages in British exchange. One gentleman, Mr. J. L. MacIntosh, acknowledged the superiority of the decimal system, but was so strongly opposed to anything that might encourage closer relations between Canada and the United States, that he advocated the establishment of a new decimal system, in which the pound sterling would be taken as the unit and divided into a thousand mills. Yet, even he admits that the American dollar must be specially provided for as a matter of convenience. It will thus be seen that sheer commercial interest, if nothing else, caused the balance of opinion to turn in favour of the American monetary system.

Special interest attaches to the evidence given by certain individuals. Thus we find that Commissary General Sir Randolph Routh, who was such a strong champion of the sterling standard, while the British Government was attempting to establish it as the currency of the Empire, now that the attempt has been abandoned, is equally strong in his advocacy of the American standard. His reason for believing this to be best for Canada rests on the practical grounds that it is most familiar to the people, most convenient for business, and fresh supplies of coin more easily and quickly obtained. On the other hand, there is no advantage to be gained from the sterling standard, while experience has shown that with it there would be a constant tendency to instability, owing to the coins fluctuating in value with the exchanges and being liable to export. The American standard is largely free from these objections and

would also permit Canadian bank notes to circulate in the neighbouring States.

Managers of the same bank in different centres varied in their opinions. Thus, the manager of the Bank of British North America at Kingston, favoured sterling as a standard, with special provision for the American dollar, while the manager of the same bank at Quebec quite opposed the sterling standard, saying that it would introduce confusion without any compensating advantages. In reply to those who urged that it would encourage immigration and bring British gold in greater quantity, he stated that already there was a decline in the gold brought from Britain by the immigrants since, in transferring their capital, they were purchasing exchange in increasing quantities.

It was very generally admitted in the evidence that the character of the standard did not materially affect the movement of capital or immigration. Indeed, hundreds of British emigrants, and thousands of British capital were flowing to the United States for tens that came to Canada. Again, practically every one giving evidence appears to have been convinced by the late experiences of the country, that the over-rating of coins with a view to retaining them in the country, was utterly futile.

Still further light is thrown on the situation, as well as on the evidence given, by a table giving the character of the specie reserves held by the leading Canadian banks. From this we find that the majority of the Upper Canadian banks, including the branches there of the Bank of British North America, held the greater part of their reserves in British fractional silver. The Commercial Bank alone held a large quantity of American dollars, and the Bank of Upper Canada had a special supply of British gold. Taking these two banks, we have the following contrast:

Bank	British Gold	British Silver	Dollars
Upper Canada.....	£10,209	£41,905	£ 2,510
Commercial.....	254	23,362	59,121

In Lower Canada, we have the following situation:

Bank	Gold	British Silver	Dollars	French Silver
Montreal... ..	£49,445	£5,300	£62,491	£ 6,875
Quebec... ..	1,437	.....	9,028	3,377
City.. ..	400	.....	5,000	13,200
Du Peuple.. ..	....	.....	3,189	4,276

The gold of the Bank of Montréal was chiefly American, while that of the Quebec Bank was chiefly British.

Though, as these figures show, the banks had in their vaults other coins than British or French silver, yet they were employed not in domestic circulation but in exchange operations, for which a high premium was paid. Thus, the banks had one coinage for the redemption of their notes, and another for foreign exchange.

That the banks were scarcely to blame for the manner in which the system operated, once it was introduced, was made clear at the time by Dr. Waudby, in an article on the currency, in the *Monthly Review*. He pointed out that since the British shilling is rated in Upper Canada as equivalent to the quarter dollar, though it is not worth as much as that coin, it drives all forms of the dollar currency out of circulation. Again, twenty of these shillings are equivalent to one pound sterling, or a British sovereign. But the twenty shillings are equal to five dollars, as legal tender, while the sovereign is worth only four and seven-eighths dollars. Hence, the sovereign, too, is driven to cover, and should either sovereigns or dollars be wanted, as they may be in exchange, they must be purchased at a special premium. If, now, any special bank were to undertake to redeem its notes in any form of legal tender that might be demanded, its notes would be eagerly gathered up and turned in for redemption for the coins of the highest value, while the debts owing to the bank would be paid in the coins of least value. Obviously such a bank would soon be driven out of business. Even all the banks together could not maintain such a position. Thus, much of the popular criticism of the banks was unfounded.

With all the conflicting interests in various parts of the country, and with varying views on the subject of currency standards, the committee of the Legislature on currency and banking found it no easy task to construct a currency bill that would run the gauntlet of both houses and meet with the approval of the Home Government. As might be anticipated, the bill which eventually reached the statute book was a compromise. While it failed to afford any permanent solution of the currency problem, and still sought to combine several standards, nevertheless it corrected many of the evils of the time and established a fairly uniform rating of the different coins, according to the accepted ratio of gold and silver.

The currency bill as submitted to the Assembly by the Committee on Currency and Banking had been drafted by Mr. Benjamin Holmes, cashier of the Bank of Montreal, and in it the values of the leading coins were given as follows:

	£	s.	d.
The American Eagle, coined before 1834... ..	2	13	4
The same, coined after 1834... ..	2	10	0
The British Sovereign... ..	1	4	3

A bullion value per ounce is given to certain other gold coins.

	s.	d.
The silver dollar, unlimited legal tender... ..	5	0
The British crown, unlimited legal tender... ..	6	0
The British shilling, legal tender to £5.... ..	1	2

When, however, the bill went to the Council, the rating of the American eagle was accepted, but the value of the sovereign was raised to £1 4s. 4d., the rating in Upper Canada, and a penny was added to the value of the dollar and the British crown. These amendments were very reluctantly accepted by the Assembly. The bill when finally passed by the Legislature was reserved for the consideration of the Home Government. It was assented to and came into force by proclamation on the 27th of April, 1842.

The act retained the Halifax currency as a kind of third term between the British and American standards. But, inasmuch as every legal tender coin was given a fractional value in currency, the common business of the country tended to pass more completely than ever to the simple decimal system of the United States. Only the money changers and those engaged in foreign exchange were compelled to deal with the awkward units prescribed in the act. The worst evils of the old system were removed by greatly limiting the number of legal tender coins. Thus, the French and British fractional silver ceased to dominate the currency of the country. The following is a table of values as fixed by the act:

Gold Coins	£	s.	d.
British sovereign... ..	1	4	4
American eagle, coined before 1834, 12 dwt. 6 grs.. ..	2	13	4
American eagle, coined after 1834, 10 dwts. 18 grs.... ..	2	10	0



All other gold coins of Britain and of the United States, before 1834, were to pass current by tale if not wanting more than two grains of their assigned weight; one half-penny to be deducted for every additional quarter grain which they may lack in weight. In the payment of sums above £50, at the option of either party, the above British and American gold coins may be employed at the rate of 94s. 10d. per oz. Also in sums not less than £50 cy., the gold coin of France of 40 francs and its multiples, may be used as legal tender at the rate of 93s. 1d. per oz. Under similar conditions the old doubloon of Spain and the Mexican and Chilian doubloons may be used as legal tender at 89s. 7d. per oz. Similarly, the gold coins of La Plata and Columbia at the rate of 89s. 5d. per oz., and the gold coins of Portugal and Brazil, at 94s. 6d. per oz.

## SILVER COINS

	s.	d.
The dollar of United States, Spain, Peru, Chili, Central and South America and Mexico, of 17 dwts. 4 grs. weight.. . . .	5	1
The half dollar... . . . .	2	6½
The quarter dollar... . . . .	1	3
The one-eighth dollar.... . . . .		7½
The one-sixteenth dollar... . . . .		3½
The five franc piece of France, of 16 dwts.. . . .	4	8
The British crown.. . . .	6	1
The British half-crown. . . . .	3	0½
The British shilling.... . . . .	1	2 3-5
The British sixpence.. . . .		7 3-10

The dollar, half dollar, and five franc piece are to be unlimited legal tender. The other coins are legal tender only to the extent of £2 10s. The only copper coin given a legal rating is the penny of Britain and its fractions, which are legal tender for the same denominations in Canada to the extent of one shilling. It had been urged by several and expected by many, that the French crowns and half-crowns of Lower Canada would be redeemed at their legal rating under the old act. As, however, the new act made no mention of them, there was, on the one hand, great disappointment in the Lower Province, and, on the other, a great scramble among the banks and other holders to get rid of them before the new act should come into force. In reply to the outcry from Lower Canada, Mr. Hincks, through the medium of his paper, explained that it was impossible to

undertake to redeem the half-crowns at the expense of the Government, since these coins were not issued by the Canadian or any other British Government. The jockeying among the banks in their efforts to unload their French silver, resulted in a rather undignified war between the Bank of Montreal and the Commercial Bank. The dispute finding public expression in a newspaper controversy between the respective bank managers, the result was that the public took alarm and the circulation of the half-crowns was almost paralyzed. At this time the half-crowns were selling in New York at fifty to fifty-one cents each, while Lower Canadian bank notes in the same market followed closely the value of the half-crowns. By the end of November, 1841, we find a general complaint voicing itself in the papers, to the effect that the banks, having lately got rid of their French half-crowns by paying them out in redemption of their notes, are now refusing to take them in payment of debts due them.

The public uneasiness threatened to result in a run upon the banks in Upper Canada. In anticipation of this the banks greatly curtailed their discounts for a time, causing general distress among the merchants. Until the fate of the currency bill was known conditions remained quite feverish, with alternate rumors of the allowance and disallowance of the act. When it was finally proclaimed it naturally took some time to adjust the currency of the country to the new law. In Upper Canada, as we have seen, almost the only coins in circulation were the British shilling and sixpence, and these were now lowered in value and limited in legal tender. There being at first scarcely any substitute for them, to refuse to accept them at the old rating threatened to hamper trade. To meet the situation the Toronto Board of Trade, at a meeting on the third of May, 1842, decided to recommend, for the convenience of business, that the British shilling and sixpence should continue to be received in the way of change at the old rates of 1s. 3d. and 7d., and they strongly urged this policy upon the whole community. The Kingston Board of Trade, following the same course, recommended to the merchants of the city and district that the shilling and sixpence should be taken at the old values.

The coming into force of the new law resulted in a temporary run upon the banks, because a number of persons, and especially the brokers, finding that their attempts to get specie from

the banks resulted in their being offered the over-rated British and French silver, had withheld considerable quantities of notes and other claims until the new act should come into force. However, this situation did not last long, though the temporary shrinkage of discounts alarmed some.

There was naturally a good deal of criticism of the act on the part of those who suffered from the change. In Kingston there was a tendency to raise the loyalty cry against it by exciting patriotic indignation at the admission of American silver to unlimited legal tender, while this favor was denied to the British silver. But, as Mr. Hincks pointed out, British silver was treated in Canada precisely as it was in Britain, where it was merely a token money, and could not be admitted to general legal tender without destroying its nominal relation to the sovereign. However, at the next session of the Legislature, the Kingston Board of Trade sent in a petition to have the late currency act amended as regards the limited legal tender of the British silver coins. But when the matter came up in committee the proposal was negatived.

Once the banks and the people had adjusted themselves to the new conditions the effect of a uniform currency as between the two Provinces soon revealed itself in a lower and steadier rate of exchange, and in a marked increase of business on a normal and profitable basis. It also facilitated an export trade in the agricultural produce of the northern and western States, which brought to Canadian enterprise the profits of the middleman, the carrier and, to a certain extent, the manufacturer.

Though the rates of foreign exchange had been distinctly affected by the currency standards of the Canadian Provinces, yet otherwise they moved in sympathy with conditions quite beyond the range of Canadian influences. The exchange market was in a very unsettled condition in 1839, owing to the stringency of the money market in Britain and its reflex influence upon the exchange and banking interests of the United States, where, especially in the south and west, credit was still in a very demoralized condition. The Canadian banks were continually alarmed at the possibility of having their specie drained away by demands from the United States, where the northern and eastern banks were steadily retrenching and fortifying their position. This was one of the contingencies to be counted upon owing to the circulation of the Canadian bank notes in the adja-

cent American territory. It was this contingency, much more than any domestic apprehension, which caused the Canadian banks to support for a time the policy of over-rating certain legal tender coins. Experience, however, proved the policy to be no ultimate protection to the banks, while it was injurious to Canadian trade.

During 1840 the American banks in New York and the northern States generally, gradually recovered their strength and enjoyed a favorable exchange with Britain. Yet the exchanges between Canada and New York remained high, ranging from two to three per cent. premium even from Montreal. While this condition lasted the banks were forced to keep a close guard upon their specie, and hence continued to be very sparing in their discounts, to the great distress of the merchants and the consequent repression of even legitimate trade which alone could bring permanent relief to the country. Towards the close of 1840 the Montreal banks virtually ceased for a time selling exchange on Britain.

Though the New York and eastern money market was in a fairly healthy condition, the south and west continued to be depressed and unstable owing to the floundering of the Bank of the United States of Philadelphia. The latter suspended specie payment on Feb. 5th, 1841, and finally assigned on Sept. 4th of the same year. This caused much confusion and some failures among the less stable institutions. About the 1st of March, Messrs. Christmas, Livingston and Prime, the New York agents of the Montreal and Commercial Banks, failed, but it was stated at the time that the Canadian banks did not lose much by the failure.

Such circumstances, combined with the unsettled condition of the currency question, kept the rates of exchange unusually high in Canada during 1841. Yet high as were the Canadian rates they were below those in the lower Provinces. At New York, during the greater part of 1841, exchange on Britain varied from 7 to 8 per cent., which was a little in favor of New York by actual par. At Montreal rates were 9 to 10 on Britain and 2 to 3 on New York, while at Halifax exchange on Britain ran from 12 to 15, and the situation culminated in a local crisis which brought disaster to several prominent mercantile houses. Towards the close of 1841 exchange on Britain ran up in New

York to 10 per cent., in Montreal to 12, and in Upper Canada to 15 per cent. However, it fell away again early in 1842, and during that and the following year it remained for the most part slightly in favor of New York. In Canada, from 1842, exchange conditions remained on the whole quite satisfactory until we come to the crisis of 1848, when, in sympathy with the British and American conditions, rates became demoralized once more.

When we compare, over a considerable number of years, the rates of exchange at Montreal and at New York, we find that, allowing for special disturbances such as a change in the currency system, the Canadian exchanges reflect very faithfully the fluctuations in the American market. As a rule they stood somewhat higher than the American rate, 1 to  $1\frac{1}{2}$  per cent. in normal times, and 2 to 3 per cent. in times of stringency. However, as time went on this margin gradually lessened.

The long-standing evils connected with the copper currency of both Canadian Provinces, called for special treatment apart from the general currency act. Notwithstanding various efforts to suppress it, including special laws to that end, the quantity of spurious copper coin in circulation had steadily increased. On several occasions considerable quantities of it had been seized by the customs authorities while being imported, yet this did not put an end to what was a very profitable business.

The difficulties which stood in the way of any practical effort to get rid of the spurious coin, are well illustrated in the case of the action taken by the Kingston Board of Trade. On the 7th February, 1840, the Board of Trade published a circular, drawing the attention of the people of the city and neighborhood to the necessity for putting a stop to the circulation of nearly all the copper coins then current in that part of the country. A list of nine copper coins was given as those which alone should be permitted to circulate, and there were several hundreds of others to be rejected. Yet the effect of even a partial compliance with this recommendation was such that an outcry was at once raised against the action taken by the Board of Trade. It threatened, it was said, considerable loss to many poor people, and especially to small tradesmen, hucksters and others who had on hand considerable sums in such coin. It was even proposed that the town council should take action against the Board of Trade. In the face of such opposition the Board was forced to

retrace its steps, with apologies to an indignant public. However, the discussion on the subject revealed the fact that in proportion to the profits which had been obtained by those who had put the spurious coins in circulation, was the loss which must fall upon those who held them when they ceased to be accepted as money. Thus the quantity of such coin in the country made the question of dealing with it a very serious one.

In 1841, during the first session of the United Legislature, while the Assembly was dealing with the general currency question, the Legislative Council took up the subject of the spurious copper coin and passed a bill for its suppression. This was accepted by the Assembly and received the assent of the Governor, while the larger measure was reserved. The act was intended "to prevent the fraudulent manufacture, importation or circulation of spurious copper or brass coin." The preamble to the act states that "great frauds have been practised upon the inhabitants of this Province, by evil disposed persons, who have imported into the same, or manufactured therein, spurious copper or brass coin, or tokens for the purpose of passing them for a much higher value than they were intrinsically worth." The act repeals all previous acts relating to copper currency. It prohibits the importation of any copper or brass coins, except the lawful coin of the United Kingdom, or the manufacture of any such coins in the country, except where permission is given by the Governor in Council to certain persons, or bodies politic, or corporate to import or manufacture it. But all such coin imported or manufactured must be equal in purity, weight and quality to five-sixths, at least, of the British penny or half-penny. Also all such coin must be stamped with the nominal value of it, and with the name of the persons or corporations authorized to import or manufacture it. The coins must, like bank notes, be redeemable on demand, in legal tender, by the parties issuing them. The tokens of the chartered banks, or of the Banque du Peuple are exempt from the prohibitions contained in the act. Penalties are appointed for those offering unlawful coin after thirty days from the date of the act going into force through publication in the Official Gazette.

Some exception was taken to the fact that the bank tokens, or other copper coin that may be authorized in the Province, might be of less value than the corresponding British coins. But

it was pointed out that the British shilling was rated at over 1s. 2d. currency. Therefore, relatively to the value of the shilling currency, the Canadian coins would be of as good value as the British coins in relation to the British shilling. As a matter of fact, however, the bank tokens already issued in Canada were of exactly the same standard as the British copper coins.

For a short time the new act seems to have somewhat abated the nuisance. But necessity soon reasserted itself, and, knowing no law, caused the act to become a very feeble, if not a dead letter. It did, however, support those who voluntarily availed themselves of it to reject the spurious issues which still circulated. The difficulty was that no adequate supply of a legal substitute had been provided, and a spurious currency was better than none.

The act had made provision for authorizing the manufacture or importation of copper coin of a prescribed quality by corporations or bodies politic. Such being the case, it occurred first to the municipal corporation of the city of Toronto, and, following its example, to the corporation of Kingston, that they might reap a little honest profit for the corporate benefit, and at the same time confer a favor upon the community at large, by providing a lawful substitute for the spurious coin then in use. The same municipalities had already turned a financial corner by the issue of small debentures in the shape of paper money, a device too well known in the neighboring Republic.

In their petition to the Governor-General, Sir Charles Bagot, the municipal council of Kingston referred to the prohibition contained in the new currency act, of the use of any copper currency save the legal coins of the Realm, or the tokens of certain banking institutions. They declared, however, "that the number of the said tokens now in circulation is manifestly insufficient for the purposes of trade, so much so, that by common consent the public permit in addition a very large amount of spurious coin to be circulated, though known to be illegal, because unless such coins continue to be used, the business of retailing cannot be carried on." Hence, with a view to relieving the situation in an important commercial centre, they "pray to be allowed to coin copper half-pence of Halifax currency, of the quality required by law, to the extent of £1,500; the coins to be payable on demand, to circulate for five years and to be of

the following description; on the obverse, the Queen's head in profile surrounded by the words Victoria, Province of Canada. On the reverse, a copy of the device of the city of Kingston, surrounded by the words "City of Kingston, half-penny, 1842." They further pointed out that it is more fitting that the authority to coin such copper tokens should be entrusted to such a corporation as theirs than to either individuals or ordinary corporations. This petition was sent in on the 8th December, 1841, and on March 2nd, 1842, they received a reply from the Governor in Council. In this it was stated that it was not considered expedient to entrust the power of coining to any body of the character of a municipal corporation. Then followed the somewhat remarkable argument, that "it ought to be made a condition that the coin should be of the intrinsic value of copper, without deducting the expense of coining, when there would thus be no profit on the privilege." It is further intimated that the Governor proposes to take steps to induce the banks to increase the copper currency of the Province with a view to the relief of trade.

A like reply was evidently given to the similar application from the municipal corporation of the city of Toronto. A considerable discussion arose over the action of the Executive in this matter. Mr. Hincks, shortly to be appointed the first Finance Minister under responsible government, gave it as his opinion that the applications from the corporations of Toronto and Kingston were quite reasonable and entirely in accordance with both the letter and the spirit of the act. He pointed out also that the Governor, or his advisers were not very well informed on the subject of the currency. The act prescribed that the copper currency to be used in Canada was to be five-sixths of the weight and purity of the British copper currency, which gave to the Canadian coins practically the same relative value as those of Britain. But in Britain there was quite a profit on the coinage of copper, it being merely a token money of limited legal tender. Mr. Hincks was also of opinion that the municipalities had quite as much right to issue coins as the banks to which the Governor had applied for an increased supply.

In his general contention as to the profit on the coinage of copper, Mr. Hincks was quite right. Yet the cost of copper was much higher in Canada than in England. Uncoined copper



was worth 1s. 9d. in Montreal and about 2s. at Kingston, and as 24d. was said to be all that could be coined from the pound, there was no profit in the business in Kingston at least. This view is supported by the fact that at least one of the banks refused to undertake any further issue of copper coins.

The Colonial Secretary, Lord Stanley, in a despatch to Sir Charles Bagot, with reference to the general currency act of 1841, stated that if there was any difficulty about the circulation of the British copper coins in Canada, the Home Government would be willing to cause a special copper coinage to be prepared for the use of the Province. No acceptance of this offer appears to have been made at that time.

The city of Kingston, taking the cue given by the Governor, authorized the mayor to purchase from the Banque du Peuple in Montreal all the copper coins which it could spare.

Although in response to an appeal from the Government, the Bank of Montreal came to the rescue with an increased supply of its bank tokens, yet the supply of legal copper currency remained for some years quite unequal to the needs of the country. In 1843 there were renewed complaints with reference to it. The Montreal *Herald* stated that the circulation of base and illegal copper coins had been steadily increasing, until it had become a general practice urgently calling for the interference of the authorities.

However, the act of 1841 proved to be the turning point toward a more uniform and stable system of Canadian currency. The moral effect of an improvement in the silver currency reacted in time upon the copper currency as well, and led to the gradual elimination of the worst elements of it. Since the improvement in the circulating medium of a country is largely a matter of the education of public usage, changes, however beneficial, can seldom be rapidly effected. It, therefore, required time to develop the currency of Canada to its present satisfactory condition.

ADAM SHORTT

Queen's University

## LOANS TO MARRIED WOMEN SEPARATE AS TO PROPERTY FROM THEIR HUSBANDS

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BY J. CLAUD HICKSON, B.C.L., OF THE MONTREAL BAR

**A**LTHOUGH the subject of this short review may be said by some to possess little interest outside of the Province of Quebec, some of the features and contingencies in connection with the case of the Trust & Loan Company of Canada versus Dame Hermine Lebrice de Kerouack (Mrs. A. J. Corriveau) are so serious and affect banking so deeply in the Province of Quebec, that they are well worth the attention of bankers throughout the Dominion. The fundamental principle involved in the case is the question of the validity of a loan to a married woman separate as to property from her husband, and a pronouncement in regard to a very important article of the Civil Code of the Province of Quebec, namely, 1301, which is as follows:—

“A wife cannot bind herself either with or for her husband, otherwise than as being common as to property; and any such obligation contracted by her in any other quality is void and of no effect.”

In order to appreciate the judgment recently rendered in this case by the Court of King's Bench for the Province of Quebec, a very brief account of the facts is necessary.

On the 11th March, 1897, the Trust and Loan Company of Canada loaned to Mrs. A. J. Corriveau, a married woman separate as to property from her husband, the sum of \$4,000, by notarial deed executed at the City of Montreal. The application for the loan was signed by Mr. Corriveau for his wife. The loan was made to the wife, who signed the deed of obligation and therein acknowledged to have received the sum in question. The husband also signed the deed of obligation as he was bound to do by the law of the Province of

Quebec, for the purpose of authorizing his wife to contract the obligation. Mrs. Corriveau received the money from the solicitors of the Trust & Loan Co. when she signed the deed. In fact, Mrs. Corriveau endorsed the cheque—which was payable to her order—in the presence of the solicitor of the Trust & Loan Company. This was done for the purpose of identifying Mrs. Corriveau at the bank. In February, 1900, Mrs. Corriveau deeded the property to one Thomas Gauthier for \$1,000, which he had loaned to her, and she reserved to herself the right to redeem the property in one year on the payment of the sum borrowed. Subsequent to the date when the repayment of the loan to Mrs. Corriveau became due, the Trust & Loan Company sued Mr. Gauthier as the owner of the property, and Mrs. Corriveau was made a third party to the suit, but really became defendant, alleging that Gauthier had deseized himself of the property in her favour, Gauthier, therefore, dropped out of the proceedings altogether. Mrs. Corriveau, authorized by her husband, defended the action, alleging substantially that the money was loaned, received and applied for the purpose of paying her husband's debts, and that in consequence the obligation was a nullity and that she should be relieved from responsibility thereunder, as the transaction was contrary to public order and illegal, and consequently the Company could not recover. It was also specially pleaded that the Trust & Loan Company knew at the time the loan was made that it was made for the benefit of the husband, and that the wife would not receive the monies, but that they would be applied solely for the husband's benefits. Evidence was adduced to prove that representations had been made both by Mr. and Mrs. Corriveau that the money was to be used for the purposes of improving Mrs. Corriveau's property which had been mortgaged in order to secure repayment of the loan. The Superior Court, Montreal, before which the case was originally tried came to the conclusion that the deed of obligation had been executed for the benefit of Mrs. Corriveau's husband, to whom the money had been given by her, and who had used the same for his own purposes, and, therefore, whether or not statements had been made as to the contemplated improvements to the property and the application of the money, the money being applied for the uses and purposes of the husband, the wife was not and could not be bound by the deed of obligation.

A majority of the Court of King's Bench upheld the view of the Superior Court, and decided that the provision of the law whereby a wife separate as to property from her husband cannot contract for or with her husband, is prohibitive, and is one of public policy, and that, therefore, whether the lender was in good or in bad faith in the transaction is immaterial. All that is required to obtain the annulment of a wife's contract of loan is proof that the money was neither required nor used for her individual purposes and was given to her husband. The majority of the Court held further, that a lender making a loan to a married woman is placed upon his guard, and it is incumbent upon him to use proper caution and to see to the due employment of the money loaned for the purposes of the wife, and that if the lender does not do so he subjects himself to the loss and has no one but himself to blame.

A minority of two of the Court of King's Bench dissented from the above judgment, but only on a question of fact. They came to the conclusion that there was not sufficient evidence to show that the money loaned to Mrs. Corriveau had been applied for purposes and uses of her husband, and they arrived at their conclusion owing to the fact that Mr. Corriveau was unable to produce any cheques or vouchers showing how the money had been disposed of by him.

It will readily be seen how far-reaching is the principle laid down by the Court of King's Bench.

A considerable difference of opinion has existed among the judges of the Province of Quebec as to the rights of the lender when the loan is made to a wife without knowledge on the part of the lender that the money was to be applied for the purposes and uses of the husband. There are numerous decisions in favor of the contention that a lender in good faith, making a loan to a married woman, separate as to property, can recover from a married woman even though the money may have been applied for the purposes and uses of the husband. There are, however, other decisions to the effect that it does not matter whether the lender was in good or bad faith, or whether he had or had not knowledge as to the purposes for which the money was borrowed, in either case he has no recourse against the wife if the money borrowed by the wife was used for the purposes of the husband.

The Supreme Court of Canada, in *Klock vs. Chamberlin*, (15 Canada Supreme Court Reports, p. 325), laid down principles very similar to those of the Court of King's Bench in the *DeKerouack* case, although in the case decided by the Supreme Court the facts were somewhat different from those presently under discussion. The Supreme Court, in the case just cited, held that the true test in all such cases, and the one which determined the responsibility of the wife, was the employment and uses to which the money had been put.

Now, in the present case the money was loaned and real estate mortgaged as security for the repayment of the loan. Of course, a bank, by law, is forbidden to make such a contract, but the principle laid down by the Court of King's Bench in the *Trust & Loan Co.* and *DeKerouack* is also applicable to advances made by banks to such married women and to the discounting of promissory notes signed by a married woman separate as to property, the proceeds of which may be diverted for the ends of the husband. Banks, therefore, in the Province of Quebec, doing business with married women, separate as to property from their husbands, under the present condition of the law, run considerable risk. How could a bank discounting notes for married women, separate as to property from their husbands, be expected to see that each woman for whom they discounted a note, would apply the money received from the bank for her own uses and purposes, and that it was not employed for the uses and purposes of her husband? But, this is just what the banks would be compelled to do if they are going to take the necessary precaution so that they may be in a position to afterwards recover the amount of the loan. This may be said to be an extreme view of the case, but it is only a logical deduction from the present judgment.

By section 65 of the Bank Act (53 Vict., cap. 31, Canada), banks have a "privileged lien for any debt or liability for any debt to the bank, on the shares of its own capital stock, and on any unpaid dividend of the person or debtor liable . . . ." but even this would be no protection to the bank in the case of an advance to a married woman separate as to property, as, if the loan is an absolute nullity, according to the provisions of the law any security held to secure the repayment of that note would also be null and void. The Court of King's Bench bases its opinion on what it holds to be the

intention of the Article of the Civil Code, namely, that this provision of the law was made in order to protect wives against themselves, and possibly against their husbands. The law gives special protection to wives not only by reason of the subjection in which they stand—being under the power and control of their husbands and subject to their constraint, but also by reason of their weakness and their natural desire to help and assist their husbands. But it is certainly unpractical and inconvenient—well nigh impossible, for a bank making loans to married women, to be compelled in all circumstances, to see to the proper application of the money. In practice it is impossible for this to be actually put into force, and the consequence is that, as far as married women are concerned, except in a few instances, banks and other financial institutions, will, under the present interpretation of the law, in order to protect themselves from loss, refuse loans to married women separate as to property from their husbands.

The foregoing remarks apply more to any future transaction which financial institutions may contract with married women separate as to property, but there is no doubt a large number of securities held by financial institutions for the repayment of loans and advances made by them to married women separate as to property from their husbands—the time for the repayment of which loans and advances has not yet matured. It is alarming to think that the repayment of such loans may depend—unless the money loaned has been used for the benefit and purposes of the wife—largely upon the honesty or inclination of the borrowers, and that the lenders have no legal recourse against the debtor to enforce performance of the terms of the deeds of obligation.

How far the lender may recover from the borrower in a case where fraud or other artifice has been used in order to obtain the loan, is entirely another question. Under the general principles of law the lender would have the right to recover the amount of damage he had sustained, but the amount sued for could only be recovered as damages, and a suit could not be entered for the amount of the loan—that is to say, the instrument itself securing the repayment of the loan, would be worthless as the basis of the suit, but might be used in evidence to recover whatever amount the lender had suffered in damages by reason of the fraud perpetrated on him. This

might, in many instances, be very small recompense to the lender,—the security held to secure the repayment of the loan being no longer available. All persons are liable for their offences and quasi-offences, so that if a married woman makes a false declaration to the person with whom she contracts the loan, as to the uses to which the money loaned is to be applied, she would be responsible for the damage caused by her deception, but even in the case of deception by the wife, the contract of loan is nevertheless null and void and of no effect, and consequently the security to secure the repayment of the loan, and the recourse of the lender would be founded on the offence alone. All that the lender might secure would be an empty judgment, which could not be executed,—the borrower having no available assets. In the present case the Court of King's Bench for the Province of Quebec has not pronounced upon this feature of the case as no damages were asked.

There are infinite possibilities, too numerous to mention in this short review, of serious and complex situations occurring in connection with the discounting of notes and the rights and recourses even of third parties against the maker who may be a married woman separate as to property from her husband.

In the present case of the Trust & Loan Company and DeKerouack, an appeal has been taken to the Judicial Committee of His Majesty's Privy Council, in order that final interpretation of the law of the Province of Quebec may be obtained from the highest court in the realm, as to the validity of loans to married women separate as to property from their husbands. It is sincerely to be hoped that the Privy Council will render a decision on this very important question of law. There is just sufficient evidence in the case under discussion to be weighed and decided, to permit of a judgment being rendered which may only apply to that case, and may not lay down a broad principle of law which will be an interpretation of this important article of the Civil Code of Lower Canada.

The whole subject may not be of so much importance to the banks as to some of the other financial institutions, such as trust companies, loan companies, insurance and investment companies; but commercial relations at the present day are so complex and closely interwoven, that the subject cannot but be one in which banks, if not directly, are, indirectly, very deeply interested.

In case any reader is interested in the subject of this short review, appended will be found references to some of the decisions bearing on Article 1301 of the Civil Code of Lower Canada.

Under the first heading are cited the cases where the Courts held that a married woman separate as to property from her husband, in order to avoid the payment of the obligation contracted by her, must prove that the lender knew, at the time the loan was made, that the money was loaned for the purposes and uses of her husband. Under the second heading will be found the decisions in a contrary sense. The list is by no means exhaustive, but most of the leading cases are mentioned.

## I.

(1). *Parizeau vs. Trudeau* (Mathieu, J.), Superior Court, Montreal, 13 *Revue Legale*, p. 593.

(2). *Baxter vs. Ross* (Mathieu, J.), Superior Court, Montreal, 19 *Revue Legale*, p. 654.

(3). *Malhiot vs. Brunelle*, Court of Queen's Bench (in appeal), 1870, 15 *Lower Canada Jurist*, p. 197.

(4). *Phialcosky vs. Gareau*, Court of Review, Montreal (Johnson, Chief Justice, and Loranger and Wurtèle, JJ.), Montreal, 1890, 34 *Lower Canada Jurist*, p. 200.

(In order to appreciate this case, the remarks of Chief Justice Johnson, on p. 201 of the report, should be carefully read.)

(5). *Kearney vs. Gervais* (Davidson, J.), Superior Court, Montreal, 1893, *Rapports Judiciaires Officiels de Québec*, 2 Superior Court, p. 496.

(6). *La Banque d'Hochelaga vs. Jodoin*, Law Reports, Appeal Cases, 1895 (Privy Council), p. 612.

(7). *Boucher vs. Globensky*, Court of Review, Quebec, 1898 (Routhier, Caron and Andrews, JJ.), *Rapports Judiciaires Officiels de Québec*, 13 Superior Court, p. 129.\*

\* *Note*.—This case was reversed in appeal and is cited under heading II.

## II.

(1). *Cossette vs. Vinet*, Court of Queen's Bench (in appeal), Montreal, 1898, *Rapports Judiciaires Officiels de Québec*, 7 Court of Queen's Bench, p. 512.

(2). *Globensky vs. Boucher*, Court of King's Bench (in appeal), Quebec, 1898, *Rapports Judiciaires Officiels de Québec*, 10 Court of King's Bench, p. 318.

(3). *Trust & Loan Co. vs. DeKerouack*. Partial report published in the *Montreal Gazette*, October 28th, 1902. (The judgment is not yet officially reported.)



## AN INTERESTING OPERATION IN EXCHANGE.

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**A**LTHOUGH it happened over thirty years ago the payment of the indemnity by France to Germany—the result of the war of 1870—has not since been surpassed in magnitude by any other operation in exchange.

The amount, together with the ransom exacted from the City of Paris, reached the stupendous total of 5,200,000,000\* francs, equal to a billion dollars in Canadian money. As it would be utterly impossible for any country even now, no matter how rich and powerful, to provide this immense sum in coin or bullion, it can readily be imagined that it would be much less possible in the early seventies; and a short sketch as to how the money was raised, and the form in which it was paid, may have some interest. This is to be found in Macleod's "Theory and Practice of Banking," Vol. I, page 352—the materials being drawn by the author from M. Leon Say's account which appeared in the *Journal des Economistes*, November, 1874.

The arrangements for raising and transferring the money required the most careful and scientific 'thinking out;' so that the operation might be carried through without deranging the money markets of the world, and seriously affecting the machinery for carrying on mercantile business.

The French Government was given from 10th May, 1871, till 2nd March, 1874, to complete the payments. The dates on which they were to be made were as follows:—

500,000,000 francs in 30 days after the restoration of order in Paris

1,000,000,000 francs in the course of 1871

500,000,000 francs on 1st May, 1872

3,000,000,000 francs on 2nd March, 1874

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\* The cost of conquering the two South African republics by the British Empire was, in round figures, 295 millions sterling, or half a billion of dollars in excess of the enormous war indemnity which Germany exacted from France thirty years ago as the cost to the former country of the Franco-Prussian campaign.—*Editorial note.*

The last payment was to bear interest at five per cent. till paid. The City of Paris being under siege and reduced to straits by the German armies, was forced to pay a ransom of 200,000,000 francs, making up the total of 5,200,000,000.

The Eastern Railroad of France had a portion of its line in Alsace, one of the provinces conquered by Germany; and it was agreed that this should be accepted as set off against the debt of France for 325,000,000 francs. Also when the City of Paris ransom was paid over and came to be adjusted it was found that there was a small balance of 98,400 francs due to the city. This, too, was set off against the big debt.

Payment could be made in any of the following modes: gold, silver, notes of the Banks of England, Prussia, Holland and Belgium, or first class bills of exchange; and it was stipulated that notes of the Bank of France should be received to the amount of 125,000,000 francs. The rates at which the money of the different countries was to be accepted was fixed beforehand. The operation was divided into two sections—the payment of the first two billion francs, and that of the final three billion. In the first operation, the pound sterling went in at 25.30 francs, the thaler at 3.75 francs, and so on; in the second, allowance was made for exchange rates being forced up in the different marts by the abnormal and long continued demand of the French Government for exchange, and the pound sterling received credit for 25.43 francs, and the thaler 3.76, and the rest in proportion.

The first necessity was, of course, the raising of the money, to place the Government in funds to meet the different payments as they came due. A loan was negotiated with the Bank of France, and two public debts opened for subscription. These debts were to be liabilities of the French nation, and not only Frenchmen, but other peoples were invited to subscribe. To receive such subscriptions as might come in from foreigners, and to facilitate the operations in exchange, agents were appointed in London, Brussels, Amsterdam, Berlin, Frankfort and Hamburg—these being the great commercial and monetary centres of Europe, where the greatest supply of bills of exchange would be found. The agents received  $\frac{1}{4}$  to  $\frac{1}{2}$  per cent. commission on the first section of the operation; and on the second 1 per cent. at first and afterwards  $\frac{1}{2}$  and  $\frac{1}{4}$ . Bills drawn on Berlin were accepted at face value; on other places, less cost of collection.

The subscriptions to the loans being received, the Treasury got its exchange machinery into operation. *En passant* it is noted that the amount of the subscriptions received in foreign bills of exchange was 602,000,000 francs. The authority is not clear on the point, but the writer draws the inference that a large part of this, perhaps the whole, represented subscriptions by other than Frenchmen to the loans.

Such gold and silver as could be spared by the Bank of France and other institutions was gathered up. The German armies had brought with them quantities of German money wherewith to purchase their supplies, etc. This was in circulation throughout France, and, as it found its way into the money centres, was impressed into service. But the gold and the silver, the German money and the set offs, all together, did not amount to one quarter of the required sum; and it was necessary to buy over 4,000,000,000 francs worth of bills of exchange. This was the part of the operation that called for the careful handling. The rates at which the bills of the various countries would be taken were fixed. If the French Government could buy them at less than these rates it saved money; if at more, it lost. Moreover, if too great a demand was made for bills, say on London at a certain centre, exchange on London would be certain to rise; and the same with exchange on other places. Wherever exchange on any leading centre was comparatively weak, special attention would be given till the continued heavy purchases forced it up too high; then the attention would be transferred elsewhere. To show how it worked, we quote Dr. Macleod: "The exchange operations in London began in June, 1871, and lasted till September, 1873. The exchange was 25.21 $\frac{1}{4}$  in June, but in consequence of acting somewhat too precipitately, it rose to 26.18 $\frac{3}{4}$  in October. In 1872, the lowest was 25.26 $\frac{1}{4}$  in April, and the highest 25.68 $\frac{1}{2}$  in November. In 1873, the lowest was 25.33 in March and the highest 25.57 $\frac{1}{2}$  in June. The mean average of the whole was 25.4943."

"As we have seen that the pound sterling was to go in at 25.30 in the first, and at 25.43 in the second section of the payment, the Government, therefore, lost money in the London end of the transaction. The same was probably the case in all the others. In the whole operation there were purchased 120,000 bills, all sizes and all sorts."

Again quoting: "Bank credits, the paper circulating between head offices and branches, circular exchanges, payments for invoices, the remission of funds for the ultimate purchase of merchandise, the settlement of debts abroad to France under the form of coupons, shares, and commercial obligations, were all in these effects, making up the most gigantic portfolio which was ever brought together."

The following is a classification of how the payments were finally made:

Notes of the Bank of France.. . . .	125,000,000 francs
German bank notes and money.. . . .	105,039,145 "
French gold money.. . . .	273,003,058 "
French silver money.. . . .	239,291,875 "
Compensations (or set-offs).. . . .	325,098,400 "
Bills of Exchange.. . . .	4,248,326,374 "

It was expected that the strain and effort involved in meeting this tremendous drain would deal a staggering blow to France; but it was withstood nobly, and, in a few years, but few traces remained of any injury. This has always been regarded as a remarkable testimony to the financial strength and recuperative powers of the French nation. It seems that some financial writers of the time maintained that owing to the much smaller quantity of specie she possessed, England could not have raised such a sum if she had met a similar misfortune. As Doctor McLeod points out, the figures quoted above prove these statements to be completely unfounded; because England could pay by "bills", if driven to extremity, to a far greater extent than France.

H. M. P. ECKARDT.

## QUESTIONS ON POINTS OF PRACTICAL INTEREST.

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REPLIES may be obtained through this column to enquiries of Associates or subscribers from time to time on matters of law or banking practice, under the advice of Counsel where the law is not clearly established.

In order to make this service of additional value the reply will be sent, when possible, direct by letter where an opinion is desired promptly, in which case stamp should be enclosed.

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The questions received since the last issue of the JOURNAL are appended, together with the answers.

### *Rules Respecting Endorsements*

QUESTION 522.—One of the "Rules Respecting Endorsements" adopted by the Canadian Bankers' Association is as follows:

"If purporting to be the endorsement of a Corporation, the name of the Corporation and the official position of the person or persons signing for it must be stated."

1. There seems to be some doubt as to what is covered by the term "Corporation."

2. A cheque payable to "The Smith M'f'g Company" is endorsed simply "The Smith M'f'g Company." Is this endorsement regular under the Rules, assuming the Company not to be an incorporated body?

3. If it were a real Corporation would the paying bank be entitled to demand a guarantee of endorsement?

ANSWER 1.—We think the rule covers either a real "Corporation" or persons trading under a quasi-corporate name; the endorsement in either case would "purport" to be that of a Corporation.

2. The endorsement of "The Smith M'f'g Company" purports to be the endorsement of a Corporation, whether the Company is incorporated or is a private partnership. If it were a private partnership, we think the rule would be complied with by the party endorsing it adding to his signature such words as the following:

"The Smith M'f'g Company,

"By John Smith, one of the partners."

or "By John Smith, Sole Proprietor."

3. The rights of the paying bank under the rules are alike whether it is a Corporation or not. If the endorsement does not state the name of the person signing and his position, it is irregular under the rules, and Clause 8 applies. This gives the paying bank the right to demand a guarantee, or to refuse payment until the irregularity is removed.

### *Cheque Payable at a Future Date*

QUESTION 523.—A cheque dated 4th November, contains in the body the following instructions: "On 20th November pay \$50." Are these instructions binding, and is the drawee entitled to days of grace?

ANSWER.—This is a Bill of Exchange payable on 20th November, with three days' grace. It is not a cheque, because it is not payable on demand.

### *The Acceptance or Certification of Cheques*

QUESTION 524.—A bank refuses to put an acceptance stamp over its ledger-keeper's initials certifying cheques and bills domiciled with it. 1. Is there any way in which we could compel them to do so, and (2) are we justified in accepting these cheques and bills as certified.

ANSWER 1.—A bank cannot be compelled to accept or certify cheques or bills, and therefore cannot be compelled to mark them in any way. Their legal obligation is simply to pay the money on demand, if the customer has placed them in funds for the purpose. The marking of cheques is a practice

which has grown up as a matter of convenience between banks. We think that the ledger-keeper's initials are binding upon the bank, as a representation on its part that it holds the funds, but the extent to which its obligation goes has not yet been determined. If a formal acceptance stamp is put on the cheque by the proper officer, we are inclined to think that it makes the bank an acceptor under the ordinary rules respecting bills of Exchange.

2. If you are satisfied that the initials are those of the ledger-keeper of the bank, we think you are justified in accepting such a certification.

### *Deposits for Benefit of a Minor*

QUESTION 525.—What is the best way in which money can be deposited by a father to the credit of his son, age eleven?

If the father placed it in his own name in trust for the son, would that protect the money from his creditors?

ANSWER.—It seems clear from Section 84 of the bank Act that a bank may take a deposit for credit of such a lad, notwithstanding his age, and may repay it to him from time to time without the intervention of any guardian, etc. There is a limitation in amount affecting such deposits in the Province of Quebec.

If the money were deposited to the credit of the father in trust for the son, the protection from the father's creditors would depend on whether the money was really the property of the son or not. If it were, the father's creditors could not touch it.

*Marked Cheque Outstanding Ten Years. Cheque Never Entered:  
No Funds Held*

QUESTION 526.—The Manager of a bank marks a customer's cheque "Good," but omits to charge it to his account. The cheque is given to a third party as security in connection with a contract, who holds it for over ten years. In the meantime the customer fails, the Manager dies, and when the cheque is presented there is no record of it in the bank books, and no money to the credit of the customer's account. Under these circumstances is the bank obliged to pay the cheque?

ANSWER.—Unless it could be successfully set up that the bank had assented to the deposit of the cheque as collateral

security, we think no claim could be established. If the marking is to be considered as an acceptance, the claim would, under ordinary circumstances, be barred by the Statute of Limitations. If it is a mere representation, not intended as an acceptance, the same result would follow.

*Special Request to Drawee of a Bill. Effect on Acceptance*

QUESTION 527.—A Bill of Exchange is drawn bearing the crossing "Accept all drafts. Any errors will be rectified at office." Is this an unconditional bill, and does the crossing affect in any way the rights of third parties?

ANSWER.—We do not think that the crossing affects anybody but the drawer and acceptor. It is an independent undertaking of some kind on the part of the drawer towards the acceptor, but the acceptance would be unconditional.

*Bill accepted by the collecting Bank on a power of Attorney. Authority to give power of Attorney.*

QUESTION 528.—We send advice of a bill we hold for collection, with form of Power of Attorney enabling us to accept the same on behalf of the drawees, to the latter, a Trading Company in a neighbouring town. This they return signed "E..... Trading Company, per J. E. Smith." We see their cheques on another bank frequently, and they are signed in this way and honoured by the bank. We accept for the drawees under this power.

Are we responsible to the owners of the bill for the validity of this acceptance, and assuming that Smith has a Power of Attorney from the Trading Company, is the above transaction a lawful delegation of his authority?

ANSWER.—We think you are responsible to the owners of the bill for the validity of the acceptance.

As regards the second point, the attorney cannot so delegate his authority, unless the effect of the Power of Attorney, taken in connection with the position of the Attorney and the nature of the business carried on, gives him power to do so.

*Endorsement of cheque: Omission from endorsement of description of payee*

QUESTION 529.—A cheque drawn by the Order of Foresters payable to "Mary Jones, widow of our late member, John Jones of Court M.....," is endorsed simply "Mary Jones."



The bank on which it is drawn returns it, requesting a guarantee of endorsement. Are they entitled to this?

ANSWER.—We think not. The cheque is properly endorsed as it stands, and the paying bank is not entitled to further protection than that which the Act gives; the obligation of the bank which has received the money to return it should it prove that the Mary Jones who endorsed it is not the Mary Jones described in the cheque.

*Lost cheque. Right of drawer to indemnity on issue of duplicate.*

QUESTION 530.—A cheque is lost in transmission between a bank in Montreal and one in Toronto. The drawer refuses to give a duplicate unless the bank in Montreal gives a bond of indemnity. Is the latter obliged to do this? Would not the drawer be relieved of liability by stopping payment of the cheque?

If the cheque had been certified by the bank on which it is drawn, what would be the right procedure?

ANSWER.—Under Section 68, Bills of Exchange Act, the drawer on giving a duplicate is entitled to suitable indemnity, and the Bank in Montreal must furnish it to his satisfaction, or, if they cannot agree, to the satisfaction of the Court. The stopping of payment does not relieve the drawer from liability, inasmuch as the cheque might be negotiated and in the hands of third parties, who would, if the cheque were dishonoured, have a valid claim on the drawer.

If the lost cheque has been certified, the rights of the bank on which it has been drawn have to be considered. Its strict rights depend on the nature of the certification. If this amounts to an acceptance it is entitled to be fully indemnified, and in any case the practical course is to include both the drawer and the bank in the indemnity furnished.

*Cheque to drawer's order. Right of Bank to have it endorsed*

QUESTION 531.—A person presents a cheque, which he has himself drawn to his own order, to the bank on which it is drawn. Is he obliged to endorse it?

ANSWER.—For the reasons discussed at length in our reply to Question 134, page 446, Volume V of the JOURNAL, we are of opinion that the bank is entitled to have the cheque endorsed.

*Rights of parties to a lost cheque, the drawer being dead*

QUESTION 532.—A cheque on a distant point is cashed for a customer, and is subsequently lost in the mails. The drawer of the cheque dies and the legal representatives refuse to give a duplicate cheque. There were funds to pay the cheque when drawn. What is the position of the parties?

ANSWER.—The matter may be regarded in this way: the delay in presenting the lost cheque has not discharged the drawer or endorser (see Sections 46 and 50 Bills of Exchange Act), but the death of the drawer has countermanded the order to pay, and the drawee bank could therefore not pay the cheque if it should now be presented. Section 68 respecting the right to demand a bill of the same tenor would not apply, as the cheque of the executors would not be the same thing as the cheque of the drawer himself, for if the estate were not solvent the giving of such a cheque would create a preference. This they cannot properly do, and besides if the bank did not pay it the executors would be personally responsible—a liability they are not obliged to undertake.

It is quite clear that the rights of the parties still subsist notwithstanding the disappearance of the cheque, and we think that the holder could make a claim upon the estate for the amount of the cheque. On proof of the facts, and on suitable indemnity being given, such a claim should succeed, under Section 69 of the Act.

*Par value of foreign currencies*

QUESTION 535.—Is there any recognized par value for francs and marks?

ANSWER.—The value of francs and marks is fixed by the Governor-General in Council, for Customs purposes, at 19.3c and 23.8c respectively, but we doubt if this can be properly called a "par value." The value of a sovereign is fixed by Section 2 of the Currency Act at \$4.86 2-3, and of the American gold coin by Section 7 at their full nominal value. The only way in which a value could be fixed for francs and marks which might be termed a par value would be a proclamation under the same Section.

*Cheque made payable at a future date*

QUESTION No. 536.—A cheque dated 15th December, 1901, has written across its face "payable 15th January, 1903."

Does such a condition invalidate the cheque? If not, would the bank be justified in paying it before the 1st January, 1903?

ANSWER.—The crossing does not invalidate the instrument, but it is not a cheque; it is a bill of exchange payable on 15th. January with three days grace, and the bank could not properly pay it before maturity.

*Warehouse receipt for grain, etc. Provincial laws limiting right of pledgees to hold*

QUESTION No. 532.—The Quebec Statutes provide that where a warehouse receipt or bill of lading for grain, etc., is held as security, such grain, etc., shall not be held in pledge for any period exceeding six months. Does this provision affect banks?

ANSWER.—The rights of banks in this matter are governed by the Bank Act, which no longer limits the time during which grain, etc., may be held by the bank as security. The provisions in the Provincial Acts on this point do not affect banks.

*Cheque to order not endorsed; endorsement of payee's banker*

QUESTION No. 533.—Do you approve of paying cheques drawn to order bearing in lieu of the payee's endorsement the following: "Deposited to the credit of account of..... (the payee), endorsement guaranteed. John Smith, Manager, Bank of A....."

If the payee should afterwards dispute the payment, would the above form any protection?

ANSWER.—Such a statement written on the book of the cheque is of course not an endorsement in the proper sense, but may be regarded as the receipt of the Bank of A....., with a declaration that they have credited the amount to the party entitled to receive payment. This does not comply with the terms of the customer's order, and it is clear that if the payee did not approve of it, he could repudiate the act of his bankers, and in that event the paying bank would doubtless have to recognize his claim, but would be entitled to look to the Bank of A..... for protection.

As a practical question the chances of trouble are exceedingly remote, nevertheless, we do not think the practice can be regarded as a satisfactory one, and it should be resorted to as rarely as possible. We would also think it better that the writing should *purport* to be an endorsement, even though this is unauthorized, by the use of such phrase as this: "For John Brown, The Bank of A. . . . ., John Smith, Manager." This would not constitute a regular endorsement under the rules, as the authority of the person signing is not, and in the nature of things could not be, indicated. It should, therefore, be guaranteed under Section 8 of the Rules. A guarantee, however, is scarcely necessary from the point of view of fixing the liability of the collecting bank. A bank which undertakes to endorse on behalf of a customer implies that it has authority to do so, and is responsible if the endorsement is repudiated.

*Payment by a Bank of a bill on a customer not accepted by him*

QUESTION No. 534.—A bank has authority to pay the acceptances of a customer, and through an error has marked and paid a draft on him which had never been accepted. Has it any recourse, or must it abide by its error?

Would "Steele vs. McKinley" apply?

ANSWER.—Where a bank has voluntarily made a payment on behalf of a customer we are of opinion that, unless there is some special reason to the contrary, they cannot get back the money from the party to whom it was paid, although we think they could in this case have corrected their error if the draft had been only marked good and not paid. The customer could ratify their act, but if he refused to treat the payment as properly made on his behalf the bank is left to any equitable rights it may have.

It seems to us, however, that the error should not necessarily involve a loss. Either the bill is drawn for an amount which the customer owes, in which case the paying bank might get an assignment of the drawer's claim on the drawee, or the latter might very properly ratify the payment; or it is a bill the payment of which by the drawee would entitle him to claim back on the drawer in whole or in part, in which event there should be some arrangement possible between the drawee and the bank which would protect the latter.

"Steele vs. McKinley" does not help the matter.

## LEGAL DECISIONS AFFECTING BANKERS

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### RESPONSIBILITY OF BANK CASHING A RAISED CHEQUE

#### The Imperial Bank of Canada v. The Bank of Hamilton

This was an appeal from a judgment of the Supreme Court of Canada, of May 21, 1901, affirming decisions of the Court of Appeal for Ontario and Mr. Justice McMahon.

Present—Lord Macnaghten, Lord Lindley, Sir Andrew Scoble, Sir Arthur Wilson, and Sir John Winfield Bonser.

The Hon. Edward Blake, K.C., and Mr. Bicknell, K.C. (both of the Canadian Bar), appeared for the appellants; Sir Robert Reid, K.C., and Mr. Douglas, K.C. (of the Canadian Bar), for the respondents.

The arguments were heard in July before a board composed of Lord Macnaghten, Lord Robertson, Lord Lindley, and Sir Arthur Wilson, when judgment was reserved.

LORD LINDLEY, in delivering the judgment of their Lordships, said the question raised by the appeal was whether the Bank of Hamilton was entitled to recover from the Imperial Bank of Canada \$495 paid to it in respect of a cheque in the following circumstances:—One Bauer was a customer of the Bank of Hamilton, and he drew a cheque upon that bank for \$5. The word “five” was written, and a considerable space was left between that word and the next words printed on the cheque. The cheque was dated January 25, 1897, and on that day Bauer took it to the Bank of Hamilton and got it marked or certified with the bank’s stamp; he then took it away with him. The effect of that marking or certifying was examined and explained by this board in *Gaden v. The Newfoundland Savings Bank* (1899, A.C., 285). The effect was to give the cheque additional currency by showing on its face that it was drawn in good faith on funds sufficient to meet its payment, and by adding to the credit of Bauer, who drew it, the credit of the Bank of Hamilton on which it was drawn. The cheque was a good cheque for five

dollars, and if it had not been altered the Bank of Hamilton would have paid it as a matter of course and no difficulty would have arisen. But after Bauer had got it marked he wrote in the word "hundred" after the word five. The cheque then appeared to be a certified cheque for \$500. There can be no doubt that the condition of the cheque when certified afforded opportunity for that fraudulent alteration; and if the principle laid down in *Young v. Grote* (4 Bing., 253), could still be acted upon, the Bank of Hamilton would as between themselves and an innocent holder for value be estopped from denying that the cheque was a certified cheque for \$500. But after the decision of the House of Lords in *Schofield v. Earl of Londesborough* (1896, A.C., 514), it was hopeless to contend that by the law of England the Bank of Hamilton was not at liberty to prove that the cheque had been fraudulently altered after it had been certified by the bank. Whether the French law which prevailed in Lower Canada was the same in that respect as the law of this country and of Ontario had not to be determined; for the French law had no application to this case. Bauer took the cheque as altered to the Imperial Bank of Canada and opened an account with it. The cheque was placed to his credit; he forthwith drew cheques upon the account so opened and those cheques were honored in the usual course of business. The cheque in question was passed by the Imperial Bank of Canada through the clearing house at Toronto, and was paid by the Bank of Hamilton on the morning of Jan. 27, 1897, the fraud not having been then discovered. It was proved by the evidence that certified cheques apparently in order and presented through the clearing house were paid as a matter of course, and that it was not usual with bankers to turn to their customers' accounts on the day marked cheques were presented for payment through the clearing house to see whether there was anything wrong before passing them. It was, however, usual to check the returns with the customers' accounts the next day, and then to enter the cheques paid the day before. In conformity with that practice the Bank of Hamilton paid the cheque on January 27, without looking at Bauer's account in their ledger, but on the next day they turned to it and at once discovered the fraud.

The Bank of Hamilton immediately gave notice to the Imperial Bank of Canada, and demanded repayment of \$495, being the amount paid by the Bank of Hamilton in respect of the cheque, less the \$5 for which it was drawn and certified. The demand not having been complied with, the present action was brought by the Bank of Hamilton to recover the \$495. The

action was defended on three grounds, viz.:—(1) because the Bank of Hamilton was negligent in marking the cheque with the blank in it; (2) because it was negligent in paying the forged cheque without first turning to Bauer's account, and (3) because notice was not given to the Imperial Bank of Canada on January 27, the day on which the cheque was paid. The action was tried by Mr. Justice McMahon without a jury, and he gave judgment for the Bank of Hamilton. The Court of Appeal affirmed that judgment, Chief Justice Armour dissenting. From that decision the Imperial Bank of Canada appealed to the Supreme Court, which affirmed the decision appealed from, Mr. Justice Gwynne, however, dissenting. The present appeal was from their decision. The learned counsel for the appellants did not seriously rely upon the first of the three grounds of defence, feeling it to be untenable after the decision in *Schofield v. Earl of Londesborough*, to which reference had already been made. They relied on the second and third grounds on which alone there was any difference of opinion in the courts below. As regarded negligence in paying the cheque, it could not be denied that when the Bank of Hamilton paid the cheque on January 27 it had the means of ascertaining from its own books that the cheque had been altered. But means of knowledge and actual knowledge were not the same; and it was long ago decided in *Kelly v. Solari* (9 M. and W., 58) that money honestly paid by mistake of facts could be recovered back, although the person paying it did not avail himself of means of knowledge which he possessed. That decision has always been acted upon since, and their Lordships considered it applicable to the present case. There was nothing on the face of the cheque to excite suspicion, nor to lead the clerk who cashed the cheque to take the unusual course of referring to Bauer's ledger account to see if all was right before cashing it. Moreover, even if negligence in that respect could be imputed to the Bank of Hamilton, such negligence did not induce the Imperial Bank of Canada to treat the cheque as good, and give Bauer credit for its amount. That had been done already. Those were the reasons which induced the courts below to decide against the second ground of defence, and their Lordships had no hesitation in coming to the same conclusion. There remains the third ground, which was based upon a supposed hard and fast rule referred to by Chief Justice Armour, who said:—"In my opinion this case is governed by the rule laid down in *Cocks v. Masterman* (9 B. and C., 902), where it said: 'But we are all of opinion that the holder of a bill is entitled to know on the day when it becomes

due whether it is an honored or dishonored bill, and that if he receives the money and is suffered to retain it during the whole of that day the parties who paid it cannot recover it back.' This rule, rigorous though it be, has been adhered to in England ever since. (See *Mather v. Lord Maidstone* (18 C.B., 273), *Durant v. Ecclesiastical Commissioners* (6 Q.B.D., 234), *Leeds Bank v. Walker* (11 Q.B.D., 84), *London and River Plate Bank v. Liverpool Bank* (L.R., 1896, 1 Q.B., 7), Byles on Bills (6th Ed., 353). The application of this rule does not at all depend upon whether the holder of the bill is or is not in fact prejudiced by the delay, for the conclusion in law is that he may be prejudiced, and this is the reason of the rule.

In this case the defendants, the holders in due course of the cheque, presented it to the plaintiffs on January 27 through the Clearing House, and, it being due on presentation, the defendants were entitled to know on that day whether it was honored or dishonored. The plaintiffs paid the cheque through the Clearing House on that day, but this payment was, in my opinion, conditional upon their right to dishonor the cheque during that day, but, not having dishonored the cheque during that day, such payment became absolute, and the defendants, having received the money for the cheque from the plaintiffs, and being suffered to retain it during the whole of that day, the plaintiffs cannot recover it back." The prejudice which it was suggested that the Imperial Bank of Canada might have suffered from want of notice of dishonor on January 27 consisted in their inability to take proceedings on that day against Bauer for the fraud which he had committed. But no one suggested that Bauer could have paid anything if he had then been proceeded against. The bank was not deprived of any of its rights against him, nor was its position altered by reason of notice of the forgery not being given until the day after the bill was paid. But quite apart from the fact that the appellants were not in any way prejudiced by want of notice on the day of payment, it appeared to their Lordships that the stringent rule referred to in the foregoing extract from the judgment of Chief Justice Armour did not really apply to this case. The cheque as drawn and certified—i.e., for \$5—was never dishonored, and no question arose as to that. The cheque for the larger amount was a simple forgery, and Bauer, the drawer and forger, was not entitled to any notice of its dishonor by non-payment. There were no endorsers to whom notice of dishonor had to be given. The law as to the necessity of giving notice of dishonor had, therefore, no application. The rule laid down in *Cocks v. Masterman*, and recently reasserted in even wider language by Mr.



Justice Mathew in the *London and River Plate Bank v. The Bank of Liverpool*, had reference to negotiable instruments on the dishonor of which notice had to be given to some one—viz., to some drawer or endorser who would be discharged from liability unless such notice were given in proper time. Their Lordships were not aware of any authority for applying so stringent a rule to any other cases. Assuming it to be as stringent as was alleged in such cases as those above described, their Lordships were not prepared to extend it to other cases where notice of the mistake was given in reasonable time, and no loss had been occasioned by the delay in giving it. Their Lordships, therefore, would humbly advise His Majesty to dismiss this appeal, and the appellants must pay the costs.

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The Bank of Toronto v. The St. Lawrence Fire Insurance  
Company

Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of The Bank of Toronto v. The St. Lawrence Fire Insurance Company, from the Court of King's Bench, for the Province of Quebec, delivered the 19th November, 1902.

Present at the hearing—The Lord Chancellor, Lord Macnaghten, Lord Davey, Lord Robertson, Lord Lindley.

Delivered by LORD MACNAGHTEN:—

The John Eaton Company, Limited, were the owners of a large dry goods store in the City of Toronto. Their stock was insured in a number of offices, and among others in the office of the St. Lawrence Fire Insurance Company of Montreal, to the amount of \$2,500.

On the 20th of May, 1897, the store with its contents was entirely destroyed by fire. The value of the goods burnt exceeded the aggregate amount of the insurances upon them.

It is not disputed now that the respondent company would have been liable for the sum intended to be secured by the policy effected in their office, if the interest in that policy had remained vested in the John Eaton Company.

It appears, however, that the John Eaton Company were under large advances to the Bank of Toronto and that they had given the Bank an undertaking that in the event of their goods

being damaged by fire they would hold the policy moneys in trust for the bank and would, if required, assign all the policies to them.

On the 22nd of May, 1897, two days after the fire, the John Eaton Company assigned to the bank their interest in all the insurances on their stock, including the moneys payable under the policy effected with the St. Lawrence Company.

Notice of the assignment was given to the several offices concerned, and due proof of loss was furnished. The respondent company was requested to concur with the other offices in the adjustment of the claim. The solicitors of the bank wrote several letters to the respondent company and pressed for an answer to their applications or at least for an acknowledgment of their communications. The respondent company, however, systematically disregarded all communications, whether oral or written, and did not answer or acknowledge a single letter written to them on behalf of the bank, a course of conduct so little in keeping with the usages of business men, that one of the learned Judges in the Court of King's Bench, whose view of the facts is accepted as correct by all his colleagues, did not hesitate to describe it as being, "to say the least, rather devious."

By the terms of the policy all claims under it were to be barred at the expiration of six months. So in November, 1897, when the period was just running out, the bank served the respondent company with a formal notice of the assignment and at the same time furnished them with a copy of the assignment itself. Later on the same day this action was brought.

The respondent company set up several defences, of which one and one only was seriously argued at the Bar.

It was strenuously contended, and the contention had already found favour with the Superior Court and a majority of the Court of King's Bench that the action must fail because the bank had not duly made "signification" as required by the Civil Code "of the act of sale," which gave rise to their claim. It was not disputed that there had been a transfer of the debt, that notice of the transfer had been given to the respondent company and that a document which purported to be and was in fact a copy of the transfer had been furnished to them. But they maintained that "signification" must be made by a notary, and that the copy ought to have been authenticated or certified, and that for want of these formalities the notification of the transfer was without legal effect. On this point their Lordships have had the advantage of considering the reasons given by Wurtele, J., for dissenting from the majority of the Court.

His judgment, in which Hall, J., concurred, seems to their Lordships to be a careful and accurate exposition of the law, and their Lordships are satisfied to adopt it as the basis of their judgment. It will therefore not be necessary for them to do more than state very briefly the grounds on which they think the decision under appeal ought to be reversed.

It appears to their Lordships that the question must depend simply upon the provisions of the Civil Code without introducing or importing any requirements which, though necessary under the custom of Paris or under modern French law, are not found in the Code as it stands. Now, the provisions of the Code as regards the sale of debts are contained in Articles 1570 and 1571. Article 1570 provides that "the sale of debts . . . is perfected between the seller and the buyer by the completion of the title if authentic or the delivery of it if under private signature." Then Article 1571 declares that "the buyer has no possession available against third persons until signification of the act of sale has been made and a copy of it delivered to the debtor," except in case the transfer is accepted by the debtor himself as mentioned in Article 1571.

There is nothing in the Civil Code to show that the intervention of a Notary is required. It is certainly not prescribed in terms, nor is there in their Lordship's opinion any room for implication in this matter.

The view of Wurtele, J., in which their Lordships concur, is confirmed by the provisions of Article 1571A, added by the Revised Statutes of Quebec (1888), which explains how "the signification of the sale required by Article 1571" may be effected whenever "the debtor has left or never had his domicile in the Province." It receives further confirmation from the exceptional provisions made in the Revised Statutes "for the assignment and transfer of consolidated rents replacing seignorial dues." Those provisions which are embodied in Article 5610 do require "a notarial act in authentic form." Apparently this requirement would have been unnecessary if a notarial act had been the universal rule.

Their Lordships do not stop to inquire whether the debtor is a "third person" within the meaning of Article 1571, as seems to have been assumed in the Courts below, and is stated expressly by Sir A. Lacoste, C.J. The question is not material in the present case. It appears, however, to their Lordships that if the point should hereafter arise, it would require further consideration.

There is one point which their Lordships cannot leave unnoticed. Some of the learned Judges who have taken part in this case express a strong opinion that it is not competent for the assignee of a debt to bring an action for the purpose of enforcing his claim against the debtor until "signification" of the act of sale has been made and a copy of it delivered to the debtor. This view is in accordance with a recent ruling of the Supreme Court (*Murphy v. Bury*, 1895, 24 Canada, Supreme Court Reports, p. 668), though until that decision was pronounced the general opinion seems to have been the other way. (See *Aylwin v. Judah*, 9 Lower Canada Jurist, 179; *Martin v. Côté*, 1 Lower Canada Rep., 239; *Quinn v. Atcheson*, 4 Lower Canada Rep., 378.) It appears to their Lordships that the institution of an action against the debtor to recover the debt is of itself a sufficient signification of the act of sale, and their Lordships agree with Wurtele, J., in thinking that there is nothing in the Code which requires the signification of the act of sale and the delivery of a copy of it to the debtor to be made at one and the same time.

For these reasons their Lordships are of opinion that the judgment under appeal must be reversed, and that an order should be pronounced condemning the respondent company to pay to the bank the amount secured by the policy in question with interest and costs in the Superior Court and the Court of King's Bench.

Their Lordships will humbly advise His Majesty accordingly.

The respondent company will pay the costs of the appeal.

## BANKERS' ADVANCES ON MERCANTILE SECURITIES

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### OTHER THAN BILLS OF EXCHANGE AND PROMISSORY NOTES

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**A**BOVE is the title of an admirable work by Mr. Arthur Reginald Butterworth, an English barrister and honorary member of the Institute of Bankers, of New South Wales, just published by Messrs. Sweet & Maxwell, Limited, Chancery Lane, London. Some idea of the interest attaching to this book for bankers may be gathered from the following prefatory remarks by Mr. Butterworth:

"The present work is founded on a course of lectures delivered at the request of the Council before the Institute of Bankers in November and December, 1901. The course was limited to four lectures, each of which was delivered before the members of the Institute in London and also at Newcastle-on-Tyne, and published in the *Journal of the Institute* early in the present year.

"It was originally intended to deal with the whole subject in four lectures, but it soon became evident that this could not be done. At the end of the earlier lectures various questions were asked by members of the Institute, many of the questions relating to matters of great practical importance to bankers, and a good deal of time was occupied in answering them. This method of putting questions by those who have a practical acquaintance with the difficulties that arise possesses several advantages. It enables the lecturer to explain points which he may have left somewhat obscure, and to enlarge on those which he may have treated in too summary a manner. It also increases the interest of the listener to realize that the legal principles discussed are not altogether "in the air," and that if he is in doubt as to what principle governs some particular transaction within his own experience,

the lecturer will at least make an attempt to solve his difficulty; and it is in applying legal principles, not in ascertaining them, that difficulties may arise. On the other hand, this method necessarily takes the lecturer, whose time is limited, away from the course which he had mapped out for himself.

“The result in the present instance was that very little time was left to deal with the important class of advances made on the ordinary Stock Exchange securities, scrip, share and stock certificates, and bonds—and in preparing this work for the press, some references to such advances have been taken from the fourth lecture as delivered, and the whole subject more fully treated in two additional lectures. This and other additions have nearly doubled the size of the work, which the author ventures to think contains information not hitherto collected in a single volume. He has endeavoured to elucidate certain points of very considerable difficulty upon which insufficient light seems to be thrown by the recognized text books—such as the important consequence of the distinction between delivery orders and warrants generally and in relation to bankruptcy; of that between estoppel and a cause of action; and the effect of certain decisions of the House of Lords relating to bankers’ advances to stockbrokers and money dealers. It is hoped that by thus rendering the work more complete it will be found useful to all who are interested in advances made on mercantile securities other than bills of exchange and promissory notes—especially to bankers and stockbrokers, as well as to lawyers.

“The author does not so far flatter himself as to suppose that he has altogether escaped falling into error, but he has spared no pains in his endeavour to make his statements accurate. In treating of legal matters, it is impossible to avoid the use of technical terms, but as he was primarily addressing an audience of laymen, he endeavoured to make his meaning clear by explaining those terms whenever it seemed to be desirable. He has made no attempt to collect a large number of authorities, but has cited cases only to support or illustrate his propositions. Although the number of those referred to may, to the lay reader who regards footnotes as an eyesore, seem unnecessarily large and even useless, he may perhaps bear with them more patiently if he realizes that to a lawyer a statement of law (unless of the most elementary description)

made without reference to the authority supporting it is of no practical use, for it affords him no means of checking its accuracy. The practice of citing authorities for each proposition, although unfortunately it affords no guarantee for accuracy, undoubtedly tends to accuracy; and accuracy of statement on matters of law is quite as important to the layman as to the lawyer. A simple treatise on a legal subject free from all disfiguring citations is apt to be as misleading to the one as it is useless to the other.

“In the third lecture, the case of *Farquharson v. King* was referred to (at page 55) as an illustration of estoppel operating against the owners of goods who had by their conduct enabled another to hold himself out as entitled to dispose of them. But, after that lecture had gone to press, the House of Lords reversed the decision of the Court of Appeal, (as mentioned in a note at the foot of page 153), and held that there was no estoppel in that case.”

## CORRESPONDENCE

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*To the Editor:*

DEAR SIR.—A case of peculiar interest to bankers has been referred to in the London financial papers, viz., “Imperial Bank of Canada v. The Bank of Hamilton.” The case, you will remember, turned upon the fraudulent alteration of the amount of a cheque which had been marked “good.” The reports I have seen are so meagre as to render it quite impossible to form any accurate idea of the terms of the judgment.

If you could send me an authentic report of this case I should be very greatly indebted to you, and if I can at any time assist you with a *quid pro quo*, I shall be at your service.

Yours very faithfully,

NEWMAN THOMPSON,  
Secretary

Institute of Bankers in Ireland,  
3 Kildare Place,  
Dublin, 4th Dec., 1902

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## THE FIELD FOR CANADIAN BANKS

*To the Editor:*

DEAR SIR.—The geographical position of Canada, situated as it is between Europe and Asia, with a great connecting link in the shape of a railroad fed at either end by steamers from European and Oriental ports, situated, as it further is, to the north of that giant Republic, whose commercial strides have astonished the world, may well make us enquire what are the future possibilities of the Dominion, and the developing possibilities of its banks.



It seems but yesterday that these were mostly confined to the Eastern Provinces, so that their advent to the great wheat belt of the Middle West, and rich mineral and food-producing countries of the Pacific coast, seems hardly to have passed much beyond the experimental stage. But already the advantage of these moves outward seems apparent in improved profits and prospects, and while there may be a tendency to somewhat overdo it, still the mutual benefit which has accrued to banker and trader alike seems indisputable, the latter having the marked advantage of dealing with branches of monetary institutions which are classed as A1 in the financial centres, and the wide ramifications of some of which put him in touch with the Old World as well as the New.

The advantage of dealing with such institutions can be reckoned no small one by the way, as must appear to those who have studied the commercial development of the Pacific Coast, where, unfortunately, the experience of some has been that the bank with which they dealt has in the day of trial been found wanting. The advantages of the branch system have more than once been brought home to the mind of the writer by American friends, one of whom, while claiming loyalty to his country and flag, expressed himself as financially loyal to a British institution when recommending a bank to his friends.

It was particularly instructive, in the trying time of 1893, when banks were going down in the United States like so many ninepins, to observe how the British and Canadian Banks stood the storm—an object lesson surely to our American cousins of the disadvantages of the individual banking system.

It is claimed that the development of Canadian banks is per capita without a parallel in any part of the world. The total deposits have increased in round numbers from \$184,000,000 in 1896 to \$342,000,000 at the close of the fiscal year June 30, while assets have grown from \$315,000,000 to \$566,000,000. In 1886 the deposits barely exceeded \$180,000,000. In the six years 1896-1902 the note circulation has expanded 72 per cent. and reserve account nearly 54 per cent.

The foregoing is instructive and pleasant reading, and indicates that Canada has entered upon a commercial development far exceeding anything before experienced, and giving employment to much of her funds. It is well to remember, however, that to Great Britain wealth has come by employing a great deal

of her surplus capital beyond her own borders, and I see no good reason why Canada should not do likewise. The Canadian banks might confer and receive benefit by establishing branches in the countries to the south and west of her. Already they are to some extent represented in the West Indies and the United States, but with the rapidly increasing traffic on the Pacific I think that the possibilities in that direction should not be lost sight of.

The visitor to London who takes the opportunity of walking around Lombard Street and its vicinity may well be struck by the various geographical points indicated by the names of banks having their head offices of European branches there, and it would seem to the observer that some of the Canadian banks might well benefit by the expanding field which is to be found in such places, say, as the Hawaiian Islands, where most of the banks seem to be more or less of a local character. Mexico also suggests itself as a possible sphere of labour, and is it not possible that representation in places even further afield might be worthy of consideration? The progressive allied to the conservative spirit seem to be the qualities necessary for these new centres, and some of the Canadian banks seem to have the happy faculty of conjoining them.

J. S. B.

Dawson, Y.T.

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ENTER—THE JUNIOR CLERK

*To the Editor:*

DEAR SIR,—The old trite maxim, “as the twig is bent the branch will grow,” must often be brought forcibly to the mind of the observing bank official who has been in the continuous service of any one of our banks for even the average number of years that most men devote to this line of business. If his observation be anything more than a superficial one, it may well be a matter of surprise if such observation does not become investigation and enquiry as to whether the “twig,” which represents for our present purpose the Junior Bank Clerk, receives the proper “bending,” or if, in fact, he is subjected to any process of “bending” whatever. In other words, what sort of training and preparation for future responsibilities does a new clerk receive? Is it thorough

and sufficient; or is this most necessary part of a good working system wholly neglected or relegated to the wrong men? If one could collect a dozen or so "first experiences" of junior clerks, I am sure he would find that there is a good deal more of "obeying orders" than "following instructions." The old story of the landsman, who, on being told to "throw the painter into the water," threw in a genuine, living article, instead of the hempen one, was justified in the writer's mind, when, upon one occasion, he observed a youngster who had been told to "put through the Cash Items—you will find them in the scoops at the back of the Teller's Boxes," obeyed the order with the following result: The first few items the boy found happened to be *Cash Items*, but what he found later was a conglomeration of a laundry bill, a postal card, a clearing-house slip, etc., things which had been placed there for or by the teller. Everything, however, went through the Cash Item Register in some fashion, and the boy was held to be very stupid. Was not the official who gave the orders, but neglected to properly instruct the lad, the right person to receive censure in this case?

The above actually occurred, and certainly any one who has had much banking experience can recall similar instances to their own minds. I am confident that I will be agreed with when I affirm that a great deal of what should be carefully explained to a new junior clerk is left to be "picked up" by him as he goes along,—a working weakness on the part of a great many of our institutions that should undoubtedly be eradicated.

In most instances the mode of procedure usual when introducing a new clerk to his work is very often about as meagre as follows: An official, usually the assistant manager, brings the youth into the office, and, barely muttering his name, hands him over to the accountant, who, in his turn, conducts him to a desk where several juniors are congregated. The tyro is introduced to them and the accountant leaves the group with the injunction "let Mr. Twig help you with anything you have to do, until he begins to 'pick up' his work." In most cases it turns out that Mr. Twig does a great deal of helping, and often some quite responsible work, before he has been in the service but a very few hours. As a rule, the busiest members of the staff are the juniors, for,

outside of any special work they may have, they are subjected to many and various interruptions, being, in the absence of the messengers, at the beck and call of the senior clerks. Thus, it is frequently the case that the services of the "new hand" are hurriedly called into requisition—even on his first day in the bank—to, possibly, tick off the cheques in, and balance a customer's pass book, or copy an important letter for the manager, which needs immediate delivery or posting and of the performance of which duty, outside the few, often given indistinctly, seldom thoroughly understood, words of explanation, he has no knowledge whatever. Although it is seldom that a bank suffers loss through the mistakes of a junior clerk, it nevertheless frequently happens that the manager of an office is subjected to the unpleasant necessity of listening to the complaints of aggrieved customers. In a short time from his entrance our young friend is given a cash book to write, and generally is left to "pick up" the method of running same from his predecessor, thus inheriting and possibly making errors which only come to light when the ledgers are balanced at the end of the month and considerable extra work and annoyance have been caused.

Again, what junior clerk on his entrance is sufficiently impressed with the importance of neatness of dress, courteous demeanor to his superiors in the service and the customers of the bank, and that the interests of the institution with which he is connected should be his own? Does he not rather learn these essentials, which go so far to make or mar his future, after many years of service? Naturally there are clerks who very readily adapt themselves to the right order of things, but we are writing for the great majority.

How then can these deficiencies, if they are admitted to exist and to be such in the working system be remedied? Why not by creating a "*Drill Sergeant*" in the shape of a Superintendent of Staff or "twig-trainer," who would, by carefully training and advising the junior clerks, not only improve the standard of the work done, but would surely from his reports keep the management in much closer touch with its staff than the majority of them are at present. This Staff Superintendent could train or bend the "twigs" in such a way as to ensure their growth into useful branches,—a consummation calculated to be of much benefit to the tree of which they form a part.

B.

# JOURNAL

OF THE

## CANADIAN BANKERS' ASSOCIATION

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APRIL—1903

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### EDITORIAL.

The Treasury statistics of the United States show that, in no period of that country's history, has the organization of new national banks been so marked as during the past three years. About 1360 new banks, with a combined capital amounting to nearly seventy-five millions of dollars, have been organized. Astounding as these figures appear to be at the first glance, they do not represent any greater growth, in proportion to population, than Canada can show. Comparison of conditions of the two countries is interesting. The banking capital of this Dominion has increased by seven or eight millions during the same period that the addition of \$75,000,000 has been made to the banking capital of our neighbors by creating new banks in the United States. But, in Canada, the bulk of the additional capital has been obtained by the issue of new stock by old and well established banks, and although new banks, in numerical proportion to those opened across the border, have not been organized here, our own financial institutions have

**Banking  
Expansion.**

displayed even greater relative activity in the opening of new branches. During the past three years about 300 branches of Canadian chartered banks have been established.

We suppose it is safe to assume that extreme caution has been displayed in the establishing of these new banks and branches in both countries. Yet, it opens an unpleasant train of thought, when one contemplates the possibility of a period of severe depression necessitating a reduction in the volume of business that Canadian and United States bankers are seeking to grapple with. The earnings of banks and trust companies on this continent during November and December of last year were, it is said, never equalled in any similar period in former times. But stringent money rates and good times will not always prevail, and it is possible that, in the wake of the many years of prosperity that Canada has been enjoying, there may follow a season of stagnation in trade and commerce calculated to test the financial strength and resources of the banks of the country.

It is to be hoped that Canadian bankers, cognizant of the ever-changing conditions in the industrial life of a nation, will keep the institutions over which they exercise control in a condition of preparedness for any and every emergency, and thereby assist in maintaining the excellent reputation of the chartered banks of Canada.

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Some interesting facts and figures are given by the authorities of the Treasury Department of the United States regarding the destruction of paper currency, withdrawn from circulation. It appears that since the Department began to collect statistics in 1866, the total amount of paper currency destroyed has been \$7,250,683,489, of which sum, \$399,798,330 was officially burned during last year. In the January number of the Bankers' Monthly, published in Chicago, reference is made to the casual destruction of notes by the public as "a remarkable source of income to the Government," and fifteen millions of

Something  
About  
Currency.

dollars is given as the estimate of notes lost or destroyed while in circulation. Without knowing upon whose authority this estimate of the loss or accidental destruction of United States currency is made, we assume that the figures have been arrived at by the same method of computation as that adopted by the Canadian Bankers' Association:—by ascertaining the sum total of unredeemed notes of the very early issues, taking it for granted that these will never be presented for payment.

In this connection the results of a recent examination of the records of circulation of Canadian banks, are interesting. A tabulated statement of the various issues of notes of the chartered banks of the Dominion presents remarkable evidence of the small percentage of notes not presented for redemption, and it would seem that the bank note, like every promise to pay, is presented in due season to the maker. As in the case of the United States, the figures showing the fate of notes issued by our banks entirely remove the somewhat general impression that much profit is derived from the casual destruction of said notes. In fact, the eminently plausible fiction that an immense number of notes are never presented for redemption, has been swept away by the tabulated statements issued by the United States Treasury Department, and by the experience of the chartered banks of Canada.

In the early days of Canadian banking, a possibility of profit accruing to banks by the casual destruction of their notes did exist, as the limited number of banks made it necessary for many people to be the custodians of the money in daily use. The cash box was kept in the store and dwelling house, and it is not unlikely that the proverbial old stocking was frequently made the receptacle for the money of the family. At the present time, so numerous are banks throughout the Dominion that they are virtually the keepers, at the close of each day, of the bulk of the money in the country, and the danger of casual destruction of currency and loss of notes by fire or flood is thereby reduced to almost the vanishing point.

Even if the estimate given by the Bankers' Monthly of the amount of United States Treasury notes destroyed while in circulation is correct, it only represents about one-fifth of one per cent. of the total amount in paper currency officially burned by the authorities of the Treasury Department.

The experience of the Canadian banks is quite as remarkable. Of the total amount of the earlier issues of their notes, less than one-half of one per cent. is outstanding.

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Even if there is only a modicum of truth in the charge that political power in Canada can be purchased, it is a cause for sorrow. The independence and integrity of Parliament should be the chief concern of every true Canadian. For this reason, the outcome of the proposed investigation into the story told by the member for Manitoulin will be awaited with anxiety by all who recognize the desirability of keeping the national honour unsullied.

About four years ago, a leading New York paper, in descanting on the necessity for a general uplifting of an administrative standard in the United States, made some comments upon the apathy and indifference of leading and honorable citizens to serve their country. It would be well if the plain and sensible remarks made by the exponent of public opinion in question could now be printed in every newspaper in Canada, so that the best men in the Dominion can be shown their duty to the State, and be compelled, when wanted by the people, to enter the arena of practical politics. There is much in the following quotation from the article referred to quite as applicable to Canada as to the United States.

"Among the causes that have contributed to lower the tone of our politics, one of the most significant is the refusal of honorable and responsible men to accept office. It is a very unpleasant admission, but it must be said that public life does not any longer attract our most reputable citizens, and this very largely because the standards of office have fallen so low that self-respecting men shrink from entering the public service. Men of the best character shun politics because unsavory methods have made office-holding synonymous with dishonor and subjected officials to almost indiscriminate suspicion."



No one will be found to deny that this is a serious state of affairs. The lack of such men in public life as those alluded to is a national loss; and their abstention from official duties exposes them to the charge of a positive neglect of duty. Their reasons, though not perhaps mere excuses, plainly show where the remedy must be first applied. The standard of official integrity must be raised; and this can be accomplished only by the voters themselves bringing out a better class of men as their representatives in civic and national affairs. At the same time, our best citizens must be prepared to make greater sacrifices of time and effort in the management of practical politics. In these days, the most active elements in politics are the two extremes, the very poor and illiterate, and the very rich; out of which combination it is of course impossible to expect anything approaching the best in measures or administration. The wonder is that conditions are no worse. There are plenty of men of genius in the country possessing the qualities of statesmanship, but generally they are occupied in the quieter pursuits of life, at the head of large concerns, where brains and character bring quicker and more practical appreciation than is obtainable in a degraded and besmirched public life. These men need to be sought after and brought out. They do not offer themselves.

There can be no honour and no patriotism greater than an unselfish devotion to the best purposes in public life. Such service is vastly more beneficent than any the army or navy can offer. Honour and meritorious distinction are still rewards worth struggling for in politics and diplomacy, or any other form of public service.

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The reproduction in this issue of the Journal (by the special permission of the talented author), of the sound and instructive paper read by Mr. George H. Pownall, an English banker, before the Manchester and District Bankers' Institute of England, will enable every member of the Canadian Bankers' Association to read one of the best contributions to banking literature ever penned by a practical banker. "The Interdependence of Trade and

**A Very  
Valuable  
Paper.**

Commerce," is deserving of close and careful perusal by every bank official in Canada. Even the most experienced general managers will find much to ponder upon in Mr. Pownall's comments upon dearly bought deposits, and the interest that the public has in seeing that a bank's balance-sheet exhibits a liquid position, and that "Advances to Customers" shall not "grow disproportionately" to the other items on the assets side of said balance-sheet. The paper is equally good reading for bankers who have not yet reached managerial chairs, but whose ambition it is to help in maintaining, (to quote Mr. Pownall) "the efficiency of that great system of banking that to-day so powerfully assists to sustain and nourish British trade."

The paper is educational in the highest degree, and every sentence of it should be read and thoroughly digested by Canadian bankers, old and young, who desire to know what is the business of a banker as seen from the standpoint of a brilliant and gifted member of the banking fraternity across the seas.

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Bank officials must rejoice to think that the reasons advanced for retiring on a pension a New York patrolman are not considered sufficient by those who control Canadian banks. If corpulency should be regarded as entitling the Pension Funds and Obesity. wearer of superfluous flesh to a life of ease at the expense of a bank, the yearly grants made by its directors to the pension fund would have to be materially increased. At the same time we must say that, if obesity contracted in the line of duty consequent upon the sedentary occupation of a banker should lead to his retirement on a pension, the order of promotion would soon be altogether to the comfort of junior clerks.

These thoughts are engendered by a remarkable verdict of the New York police surgeons on a candidate for a pension for patrolman, John Eagan. The surgeons directed his retirement from service owing to permanent disability "*due to asthma and obesity contracted in the line of duty.*"

"I don't see just how Eagan could have contracted obesity in the line of duty," the Commissioner remarked, "but I can-

not go back of the surgeons' finding. The law says I must retire a man on their recommendation."

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The silver-tongued gentleman from Nebraska, whose attempts to climb into the Presidential chair of the United States resulted in disappointed ambition, owing to his advocacy of the claims of silver to be placed on a parity with gold, must surely be surprised at the signs pointing to the general adoption of the gold basis by all civilized countries. The next deserters from the silver camp will probably be Mexico and Siam. The former country finding the fluctuations of silver detrimental to trade and commerce, is said to be contemplating a gold basis with some slight modifications to suit the needs of the country. The advocates of the gold standard for Mexico express the opinion that, when the currency question is satisfactorily settled, the investments of foreign capital in developing the resources of the country will be enormous.

Another bitter blow for Mr. Bryan is the closing, by Siam, to the free coinage of silver, of the mint at Bangkok, that country having also resolved to place herself upon a gold basis.

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We are indebted to our neighbors in the United States for many excellent ideas, and not the least valuable of them is one, an illustration of the usefulness of which was recently given at

a fire in the basement of the Commercial National Building, Chicago.

**In Case  
of Fire.**

It seems that the officials of the bank in question, to the number of some 120, under the presidency of Mr. Eckels, have been well drilled to meet any emergency. The fire-drill of the staff of this bank has fitted them for prompt and good service in case of fire or panic imperilling the treasures of the Commercial National Bank. Referring to the fire which occurred, the Chicago Banker says:

It was at the busy hour of the day when thousands in currency and millions in notes and collateral were upon the trays and counters in the cages, which go to make up the great horseshoe counter where customers are served. Promptly at the tap of the gong every cage door stood open. The clerks and tellers each took

his allotted portion of the notes and collateral and stepped promptly into the open aisle back of the cages. Another signal from the gong and they were on their way to the huge vaults with notes and securities valued at more than thirty millions.

These various acts were simply a repetition of their usual drill, and one need not be surprised to know that these millions of inflammable character were securely housed in the great vault, and locked up within the short space of six minutes. Watchmen had taken their places according to previous drill and guarded the entrance doors, and no one was permitted to enter the bank during the progress of the fire.

When the city department had succeeded in subduing the flames, and the clerks sought their accustomed places, it was found that so perfect had been the handling of the bank's funds that not even one copper cent had been dropped or mislaid.

This all speaks volumes for the efficiency of the discipline at the Commercial National, and is no small tribute to the chief, who controls the coming and going of this busy bank. Nothing more in the way of recommendation should be required than a mere recital of the fact to induce every bank where such a system is not now in vogue to adopt it at once. It does not cost a cent and may save thousands or millions as the case may be."

Those who have witnessed the fire-drill on an Atlantic liner in mid-ocean, or the similar equally interesting evolutions at some of our Canadian public schools, will be able to appreciate the wisdom of having the entire staff of a large bank trained in such a way as to ensure the safety of the money entrusted to their care, in case of fire, riot, or sudden panic.

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Under an arbitrary or despotic Government the enjoyment of political liberty is impossible. But, in the United States of America, the land of the free, and the home of the brave, celebrated in song and story as a country where one is subject only to fixed laws, and defended by them from encroachments upon natural or acquired rights, every citizen is, it seems, able to follow his own impulses, desires, or inclinations, and is "free to fling what'er he feels, not fearing into words." Congressman De Armond, of Missouri, feels that the acquisition of Canada by his country would be a good thing, and he says so.

Representative De Armond (Mo.), introduced a concurrent resolution providing as follows:—"That the President be and is hereby requested to learn and advise the Congress upon what terms, if any, honorable to both nations and satisfactory to the inhabitants of the territory primarily affected, Great Britain would consent to cede to the United States all or any part of the territory lying north of and adjoining the United States, to be formed in due time into one

**Our  
Attractive  
Territory.**

or more states, and admitted into the Union upon an equality with the other states, the inhabitants thereof in the meantime to enjoy all the privileges and immunities guaranteed by the federal constitution."

Such being the case, no Canadian should suffer from any uneasiness or discomposure of mind upon the perusal of the resolution introduced at Washington about a month ago by this American politician, who is evidently a convert to the growing belief that the territory lying north of the United States would form a splendid addition to the great Republic. There is no necessity for angry abuse of Mr. De Armond.

Anger, though natural to man, becomes like every other passion, hurtful and sinful when not restrained within the bounds of strict moderation, so, although resentment may be felt at what Canadians may consider to be the colossal cheek of a covetous neighbour, we prefer to regard the resolution of this American congressman, having for its object the acquisition of our territory, as a pretty compliment to its attractiveness, and as being only another bit of evidence of the growth of knowledge among our neighbours that the wheat fields and mining regions of this Dominion are likely to become a source of boundless wealth to their owners. The United States may have become an influential factor in the foreign policy and politics of Europe, but we should be sorry to see our neighbours again encouraging the idea that Canadians may some day consent to a severance of relationship with the Mother Country. Such a possibility was smothered when the confederation of the provinces was consummated.

At the same time, it becomes a matter for congratulation that Canada is the recipient of so much delicate attention, even if we decline to regard these occasional advances of our neighbours with the same trustful simplicity as that which distinguished Little Red Riding Hood in her dealings with the Wolf.

The American Congressman, who desires his President to ascertain upon what terms "Great Britain would consent to cede Canada" to the United States, cannot surely be too bluntly told that Canadians would have something to say in the matter, and that even the beautiful picture of the enjoyment resultant from the "privileges and immunities" guar-

anteed by the Constitution of the United States will not cause loyal Canadians to swerve in allegiance to their King and country.

Yet, in the recent influx of Americans into our Northwest territory, and in the resolution introduced by Mr. De Armond into the Washington House of Representatives, there may be seen the sign of a growing, even if greedy, admiration for the broad wheat lands, great woods and ranges of mountains of a country of which it may be truthfully said that nowhere can be found a happier union between the fertility of nature and the industry of man.

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It will be noted that this Journal offers to reply to enquiries of Associates or Subscribers on matters of law or banking practice, under the advice of counsel where the law is not clearly established. We regret that attention has to be drawn to the fact that some of the enquiries received by the Journal can hardly be regarded as "Questions on Points of Practical Interest," and we venture editorially, on behalf of the Journal Questions Committee, to ask our readers to confine themselves to interrogatories having some connection with banking usage and custom. Questions occasionally reach the office of this magazine, of a character to provoke answers as flippant as that given to the woman who wrote to the editor of a society paper asking what to do with a wrinkle in her forehead. In the absence of the head of the beauty department, the worried editor said to his stenographer: "Tell her to putty it up and forget it."

To Our  
Readers.

In dealing with some of the questions sent to the Journal, it is difficult to determine whether the writers are unconscious humorists, or genuine seekers after knowledge, handicapped by incoherency of statement.

J. T. P. K.

# THE HISTORY OF CANADIAN CURRENCY, BANKING AND EXCHANGE.

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## GENERAL FEATURES FROM 1841 TO 1850.\*

WE have already referred to the important part taken by the Hon. Francis Hincks in Canadian financial and banking affairs. From the time of his first entering the Parliament of United Canada in 1841, and associating himself with the financial policy of Lord Sydenham, including its banking and currency features, his was the dominating influence in financial matters in the Canadian Legislature. In the interval between 1843 and the latter part of 1847, while he was out of office, practically no development took place in any branch of the financial field. But immediately after his resumption of the post of Inspector General, the name then given to the position of Minister of Finance, the movement was taken up where he had dropped it and carried forward in every department, from municipal assessment to the re-arrangement of the provincial debt, and including important phases of currency and banking.

Naturally adapted by training and temperament to fill the role of an efficient minister, Mr. Hincks had profited much

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### \*Chief sources:—

Journals of the Legislative Assembly of the Province of Canada, 1840-1850.

The Provincial Statutes of Canada, Vols. II-III.

Reminiscences of his Public Life, by Sir Francis Hincks, Montreal, 1884.

Observations on the Usuary Laws, by Hon. Henry Sherwood, M.P.P., n.d.

*The Globe*, Toronto, 1848-50.

*The Pilot*, Montreal, 1847-51.

*The Witness*, Montreal, 1848-49.

*The Chronicle and Gazette*, Kingston, 1842-48.

from his close though informal association with Lord Sydenham, who was one of the ablest of British financiers, during a very critical period for the financial credit of Canada.

We have already seen how, with the assistance of Mr. Hincks as chairman of the banking committee, the charters of the three Lower Canadian banks had been brought into line with the chief requirements of the Treasury Department in Britain. Nevertheless, Mr. Hincks fully recognized that the existing conditions and future needs of Canada did not admit of following the English example in all respects, especially as regards the system of coinage suitable for Canada. He was fully convinced that the Canadian currency should be assimilated to that of the United States, and that in the matter of banking also we should profit by the best experience of the neighbouring states rather than attempt the literal reproduction of the British system, which was so little adapted to the peculiar conditions of a new and undeveloped country like Canada.

However, the more the Home Government discussed the difficulties of its own banking system, the more determined it seemed to become that Canada must follow its example. As the result of the bank charters of 1841 still permitting the issue of notes as low as one dollar, the Royal Assent had been withheld from some of them. The bills passed in favor of the Montreal, Quebec and City banks, whose charters were on the verge of expiring, had either to be renewed or the banks left without legal status, a matter of very serious consequence to the credit and trade of the country.

The Colonial Secretary writing to Sir Charles Bagot on the subject, stated that though Her Majesty had given her consent to these bills, yet it had not been done without considerable hesitation, inasmuch as the provisions with reference to small notes under one pound were altogether at variance with the regulations laid down for the incorporation of banking companies in the colonies. But since they had been passed by both Houses and strongly recommended by Lord Sydenham, who considered that unfortunate consequences might follow their disallowance, Her Majesty's sanction had not



been withheld. But the Home Government was still strongly of the opinion that the issues of small paper notes should be abolished, with a view to securing an extensive circulation of metallic currency.

In 1842, the Commercial and Upper Canada banks renewed their petitions for enlarged and amended charters. The committee of the Assembly recommended that the capital stock of each should be increased to £500,000, upon the same terms and conditions as those specified in the charters granted the previous session. Bills embodying these recommendations were duly passed, and though again expressing their reluctance to sanction these charters on account of the small note clauses, the Home Government was once more constrained to let them pass or injure the trade of the country. As in the case of the Lower Canadian banks, these charters were to continue in force, subject to amendment, till 1862.

Though the double liability clause was introduced into all these new charters, yet in 1842 the Gore Bank, in whose act of incorporation this condition first appeared, made a strong though unsuccessful effort to be relieved from this obligation. At the same time the recently chartered Niagara District Bank petitioned for similar relief. Under an apparent misapprehension it was assumed by a committee of the Assembly, in argument on the subject, that the Royal charter of the Bank of British North America had been granted without the double liability requirement. But according to a report of the Board of Directors of that bank, what had been done was to substitute the double liability of the shareholders for their previous unlimited liability.

The real trouble with the Niagara District Bank was that, in common with the older chartered banks though to a greater degree, it found much difficulty in getting its capital subscribed. Within three years all the large banks had been authorized to very greatly increase their capitals, and were required to have the extra stock subscribed and paid within a limited period. The country was in no condition to supply so much banking capital, hence all the banks in turn found

themselves compelled to apply for an extension of the time within which to dispose of their additional stock.

Failing in its direct application, the Niagara District Bank secured its object in another manner. In 1843 it obtained an amendment to its charter substituting for the double liability of its ordinary shareholders the unlimited liability of its directors. This amendment placed the bank on much the same basis as the Banque du Peuple.

Various expedients were tried, with a view to inducing British capital to invest in Canadian bank stocks. Among others was an act, secured in 1843, authorizing the Commercial Bank, the Bank of Upper Canada, and the Niagara District Bank to set apart a certain portion of their capital, to be known as "English stock," to be transferable in London at their agencies there. The dividends on the stock might also be made payable there. This expedient helped the two older banks but not the new one.

During the same session of 1843 the banking institution of Messrs. Viger, De Witt & Co., commonly known as the Banque du Peuple, sought and obtained a regular provincial charter. In their petition to the Assembly they pointed out that the bank had been carried on for a number of years under articles of association which were about to expire, hence they desired a regular charter as nearly as possible in accordance with their articles of association. The parties mentioned in the act of incorporation, who were mostly French-Canadians, were to have the sole management of the affairs of the bank, and were to be individually and jointly liable for all its obligations. They might, however, as in their original articles, associate with themselves other partners *in commendam*, who should be liable only to the extent of their shares in the company. The capital was increased from £150,000 to £200,000, in 16,000 shares of £12 10s each. The managing partners, or members of the corporation, were to hold at least forty shares each, and must number not less than seven, nor more than fifteen persons. The usual regulations and restrictions in the recent bank acts were included in this.

From time to time from quite an early period savings societies of various forms had been established in different Canadian towns, such as Quebec, Montreal and Kingston. The object of these early associations had been entirely of a benevolent nature, intended to promote thrift among the poorer classes. The total amounts to be dealt with were of very modest proportions. At a later period a general development of savings banks in Britain and in some of the Northern States evidently suggested the possibility of extending the system in Canada. Thus in 1841 a new savings bank was established in Montreal, the old one still surviving, and another in Kingston in the same year. The resolution which brought into being the Montreal Bank was as follows:—"Resolved, that from the increased and increasing trade and population of this city and neighborhood, the community requires and could support an institution wherein the industrious tradesman, mechanic, and others might deposit their savings for safe-keeping and letting out at interest, to be open to the public at all reasonable hours; and that therefore a bank be forthwith established in this city for this purpose, and be entitled the Montreal Provident and Savings Bank."

Various rules and regulations were adopted for the government of this institution, which was to be managed by a committee mainly composed of well-known business men. This movement apparently suggested the necessity for some legal cognizance of this and other proposed savings banks. During the session of 1841 Mr. Benjamin Holmes, of the Bank of Montreal, and member for the city, introduced a bill for that purpose. Through a conference with Mr. Holmes the new bank and the proposed bill were brought into harmony with each other.

The new act was largely based upon an English act of the same nature. Its chief features were as follows:—The object was to protect such institutions as have been established and to encourage others, where the object is the safe custody and increase of small savings belonging to the industrious class. Those desirous of instituting such a savings society as may come under the protection of this act, must make public

the rules of their institution, and deposit a copy of them with the Clerk of the Peace for the District. No treasurer or other officer of the bank shall derive any benefit from the deposits in the bank, beyond such salary as may be paid to him. The management of the institution shall be vested in a board of trustees who may invest the funds of the bank in provincial securities, in chartered bank stocks, or other public securities, but not upon personal security. No individual may have on deposit more than £500, except religious or charitable corporations. The trustees shall lay before the Legislature a detailed account of all moneys deposited, the number of depositors, and the securities in which the moneys are invested. The act was to continue in force for ten years.

When this measure came before the Imperial Government, it was criticised on the ground that it departed in some essential features from the British act which was its model. The amount allowed to be deposited by each individual was regarded as too large, and it was maintained that the investment of the deposits should have been confined to government securities alone. Again, the act did not set any limit to the interest to be paid, and in several other particulars it appeared to the British official critics more like an act to authorize a joint stock investment company, than one for the safeguarding of savings banks. The Canadian Legislature took no action on the criticisms offered, and the act remained unaltered for a number of years. In 1845 a bill had been introduced to amend the Savings Bank Act, but the Council altered it so as to permit only one-third of the funds to be invested in mortgages, and then only to one-half the value of the property, but this amendment the Assembly struck out and the bill failed to pass.

For a time the only bank acting under this act was the Montreal Provident and Savings Bank, which, as it was not at first regarded as in any way a rival of the chartered banks, kept its deposits not otherwise invested, with the Bank of Montreal, and was allowed interest on them at the rate of four per cent. Afterwards this rate was limited to individual deposits not exceeding £100, and for all others the rate was

three per cent. In consequence of the criticisms of the Home Government it was agreed by the savings bank that the maximum individual account should be limited to £200. The bank, however, did not carry out its promise, since it accepted accounts up to £500 and over, and allowed four per cent. on all of them. In 1846 another savings bank was started in Montreal, under the title of the Montreal City and District Savings Bank, which also came under the act. There immediately resulted a strong rivalry between the two banks. As a consequence of this competition the Provident and Savings Bank, after January 1847, raised the rate of interest on deposits to five per cent., at first on those up to £50, and later on all up to £300. Outwardly the bank was most prosperous and highly commended, but neglect or oversight on the part of the directors, loose and irresponsible management, and ultimately actual fraud on the part of its chief officer, prepared the way for a collapse in the summer of 1848. The bank suspended payment for a time, and many of the depositors sold out their claims at a heavy discount, deriving little comfort from the fact that the assets ultimately paid eighteen shillings on the pound. The bank was reorganized and continued its existence. Several other savings banks were afterwards established, but the system cannot be said to have become popular in Canada, its function being fulfilled partly by the regular banks and partly by other institutions. In 1854 a much more elaborate measure supplanted the old law regulating savings banks.

During the session of 1846 a petition was presented from Augustin Perrault and others, mainly French-Canadians, praying for a charter for a new bank in the city of Montreal. This was favorably reported upon, and a bill was introduced to incorporate La Banque des Marchands. The bill passed both Houses and was reserved. In the despatch which contained the observations of the Lords of the Treasury on this new bank bill, we observe the growing determination on their part to control the monetary policy of the colonies. Having been engaged for some years in a long and somewhat bitter discussion of their own currency and banking affairs, which

finally found a practical issue in the Bank Act of 1844, the officials of the British Treasury seem to have reached the conclusion that this act, and the reasons for its adoption, expressed not merely all that was wise in the way of monetary policy for Great Britain, but for the world in general, and especially for the British colonies. In the changing political relations between the self-governing colonies and the Imperial Government, the principle of independent control, on the part of the colonial governments in all matters of internal administration, was now recognized. Yet at this very period the Lords of Her Majesty's Treasury insisted upon dictating to the colonial governments in a more absolute and inflexible manner than ever before, just how they must regulate their banking and currency.

In 1846 Mr. Gladstone, who was then Colonial Secretary, sent to Lord Cathcart a despatch containing revised regulations to be observed in incorporating banking companies in the colonies. In this it is frankly stated that the changes proposed were necessitated not so much by changed colonial conditions as by changes in the British system to which it was intended to assimilate the colonial banks. Though not proclaimed as absolutely inflexible conditions yet they were regarded by the Imperial Government as of so much importance that Lord Cathcart was to use all his influence in having them incorporated in any future bank charters. These regulations were twenty in number, and embraced most of those set forth in Lord Russell's despatch of May 4th, 1840, and on which the Canadian Banking Committee of 1841 had based its list of rules to be observed in all future bank charters granted in Canada. Most of the others had also been embodied in the new bank acts passed after 1840. Only on one important point was there any essential difference, and that was in the fourteenth clause, which required that no promissory bank notes should be issued for sums under one pound currency. But the Canadian charters, as we have seen, and the new bill incorporating the *Banque des Marchands*, still authorized the issue of one dollar notes.

When the new bank bill came before the Lords of the Treasury they acknowledged that it complied fairly well with the rules laid down by the Board for the incorporation of colonial banks. However, they seized upon the departure in the case of the small notes, insisting that various evils must result from the exclusion of specie from circulation. The only reason, it was said, for assenting to the previous charters which contained this privilege, was the urgent necessity in the special circumstances of the province, for continuing the business of the banks, and the fact that they had been strongly recommended by Lord Sydenham. But there was no such urgency in the case of the present bank bill. The Treasury Board has always objected to the small note circulation in the colonies, and is at present specially of the opinion that the reasons which have led to the abolition of the one pound notes in England, apply equally to the abolition of the one dollar notes in Canada. Hence, in the absence of any sufficient reason for continuing this evil system in Canada, they do not feel inclined to assent to the new bank bill. They recommend that it be sent back to the Governor-General with instructions to bring it again before the Executive Council with a view to having it amended in this one respect at least. But should the Council still insist upon having it passed unaltered it may then be sanctioned. No amendment being made the act came into force by proclamation on January 7th, 1848.

In the meantime, another bank, the Quebec District Bank, had received a charter, which, although reserved, was protected by the decision in the case of the one before it, and also came into force by proclamation in 1848. This bank had been organized on the ground that while Montreal had several banks Quebec had only one, and it was imagined that the trade of the city was unduly hampered in consequence, notwithstanding that it contained several branches of other banks.

However, the new banks escaped strangulation at the hands of the Lords of the Treasury only to perish of starvation during the financial famine of 1848-9. The Montreal, City and Quebec banks had just obtained acts authorizing them to

still further increase their capitals, and the banks of Upper Canada had found it necessary to have the period for securing their new capital considerably extended, but with a crisis on hand not only was there little ability or inclination to invest in new enterprises, but banking was a particularly unattractive form of investment where a double liability had also to be faced. Thus, not only did the Niagara District Bank fail to secure its capital, though it afterwards went into operation in 1854 under the free banking system, but the Banque des Marchands and the Quebec District Bank likewise failed to obtain the means of life.

It is not possible here to trace the paralyzing effect upon Canadian private enterprise and resourcefulness which had resulted from years of vacillating policy on the part of the Imperial Government with reference to Canadian trade. From the close of the War of 1812 it had been regarded both in Britain and Canada as the duty of the mother country to foster the development of the British North American colonies. But the British Government knew almost as little then as it does now of what was really necessary for the development of Canadian resources. With the most benevolent intentions, though with numerous changes and re-adjustments of method, and usually with much real sacrifice of British interests, they granted preferential treatment in their markets to the two great staples of Canadian export, grain and timber. They also spent directly millions of British money in extensive military establishments, and in abnormally costly public works of a quasi-military character. Yet the net outcome had been an increase in the burdens of the British taxpayer, the creation of a few wealthy persons in Canada, and the paralysis of self-reliant Canadian enterprise, with the important secondary result of diverting the large stream of British immigration which originally landed in Canada, from the vacant lands of this country, upon much of which also the dead hand of privilege was laid, to the freer lands and more enterprising atmosphere of the United States. Only when Canada was relieved from this system of artificial and unstable imperial preference, and ceasing to strain her vision



across the Atlantic, turned her eyes and her energies to her own resources, did there come a period of real development of Canada by Canadians. Yet it was not possible at once to escape the unfortunate consequences of the past, or regain the distance which had been lost. The period of transition from 1846 to 1851 was rendered particularly trying from the fact that while the British preference on colonial grain and flour was being abolished, and British and Canadian traders were being mutually liberated from the bondage of the navigation acts, the trade of the world was undergoing one of the most severe crises of the century. This was due to general over-speculation, aggravated in the case of Britain by the railroad mania of 1847, while this again was followed by a general paralysis of trade throughout Europe, owing to an epidemic of revolution which swept the continent in 1848.

Naturally the events and conditions thus briefly outlined had very important consequences for Canadian currency and banking, as well as for Canadian finance in general.

When the Baldwin-Lafontaine ministry came into power in 1847, and Mr. Hincks once more became Finance Minister, he found an empty treasury and numerous financial obligations, especially in connection with the Welland Canal, to which the country was committed. It was impossible to borrow money in Britain, then at the height, or depth of its crisis. The banks were appealed to, but fearing, with very good reason, for their own safety they declined to afford the Government the aid required. Besides the late ministry had quarrelled with the Bank of Montreal, and withdrawn the Government account from its custody. In these straits the Government determined to resort to the issue of small public debentures in the shape of provincial notes for ten and twenty dollars each. Accordingly, on the 17th of March, 1848, a message from the Governor was sent to the Assembly recommending the issue of debentures on the credit of the Province to the extent of £125,000, for the purpose of meeting the exigencies of the public service and sustaining the credit of the Province.

The Assembly accepted the suggestion, and the necessary act was passed. The act left in the hands of the Executive the form of the debentures, the separate sums for which they should be issued, the rate of interest to be allowed on them, not, however, exceeding six per cent., and the period and place at which principal and interest should be made payable.

In determining these details, Mr. Hincks was evidently guided by the opinions expressed by him at the time of the proposed Provincial Bank of Issue. Yet he admitted that the circumstances under which the issue of provincial notes was to take place were not very favorable for a new currency experiment. The debentures as issued were simply Government post notes of the same appearance as ordinary bank notes, payable one year after date with interest at six per cent. They were, however, at all times receivable for all taxes, debts, or dues payable to the Government. When thus paid the Government undertook to reissue them, which was regarded as going beyond the powers conferred by the act.

The banks suspecting, and not without reason as the future proved, that this new departure, if encouraged, might result in a permanent issue of Government paper to the partial replacement at least of the notes of the banks, strongly condemned the policy of the measure, and steadily discouraged the circulation of the debentures. The banks and their friends were not without materials for strong argument against the policy of the measure. Both the United States and British North America afforded striking historical examples of the proneness of governments, when reckless or in straits, to abuse the privileges of issuing government notes. However sound the ideas of the Canadian Minister of Finance might be as to the rigid limitations of the new expedient, yet too few of the people who supported his measure appreciated the importance of the principle that the paper currency of a country should be regulated in its issue, not by the financial difficulties of the government, but by the needs of the country for a medium of domestic exchange. When times are good and business expanding new issues may safely occur, but under opposite conditions currency must be withdrawn. Yet the

critics of the new government expedient were able to point out that just at a time when business was exceedingly dull and the Canadian banks were curtailing their circulation, government paper money was to be added to the currency of the country, not on the ground that there was any extra need for currency, but simply because the government was in want of funds. Want of funds had been the occasion for the issue of Welland Canal notes, and of the currency debentures of Toronto and Kingston. In this very year, 1848, the Midland District Council had decided to provide funds for the opening of certain roads by the issue of currency debentures, which in due course came into circulation. Other district councils would undoubtedly have followed in this seductive line had not the Baldwin Municipal Act of the following year, 1849, prohibited all municipal authorities from issuing small paper debentures intended to circulate as currency.

In reply to the criticisms of the banks the defenders of the government justified the issue of the debentures on the ground that it was absolutely necessary to sustain the public credit, for the impairing of that would cause more injury to the country and its mercantile credit than a very considerable issue of government paper. It was further maintained that the credit of the country was much safer than that of any bank, and that, indeed, the banks would do well to employ the new notes as reserves, and for the payment of balances between them, as the Dominion notes are used at present. The banks chose to regard such suggestions as adding insult to injury, and maintained their hostility against the government issues, with the result that they ranged from par to three per cent. below, until nearly the close of their career.

However, the new departure familiarized the people with the sight and use of government notes, and prepared the way for future possibilities. Notwithstanding the determined opposition they had met with, and the serious doubts cast upon the legality of their reissue, they might be regarded as having been quite successful. Sufficiently satisfied with the experiment, the finance minister and his colleagues sought to prepare the way for a more permanent and extensive use of

government notes on much the same basis as the present Dominion notes.

During the session of 1849 Mr. Hincks introduced a series of ten resolutions dealing with the whole financial system of the country. The first three covered the new proposals as to the treasury notes, and are in substance as follows:—

1. It is expedient to authorize the Governor-in-Council, as the interest of the Province and occasion may afford, to purchase or redeem the outstanding debentures of the Province, and to issue new debentures on the consolidated revenue, provided that the public debt is not thereby increased.

2. That of these new debentures to be issued, a sum not exceeding £50,000 currency may be issued in debentures, being each for a sum less than £10 currency, and that such may be made payable on demand, or at any time after date, with or without interest, and may be receivable in payments due to the Government on any account, and, being received, may be reissued or cancelled, and others issued in their place, the total outstanding at any one time not to exceed £250,000.

3. Owing to the pressure of the just demands of the Provincial Government, which the funds in the public chest were insufficient to meet, debentures of the kind above mentioned, were issued under the authority of the Governor-in-Council, since July 1st, 1848, and have been received in payment of duties and other moneys due to the Government, and being received have been cancelled, and others issued in their stead, the total amount outstanding at any one time not exceeding the sum of £125,000, yet since these proceedings were not wholly within the letter of the law it is necessary and expedient to indemnify the parties employing them in payments and receipts since the first of July, 1848.

Though all the chartered banks united in petitioning against the second resolution, and desired to be heard by counsel at the Bar of the House, yet it was passed by the Assembly on a vote of 49 to 14. In the course of the debate on the subject Mr. Hincks, recognizing the strong opposition

of the banks and the opponents of the Government, declared that it was not the intention of the Government, as popularly supposed, to commit the country by this means to the more radical measure of a government bank of issue. He also promised that if the needs of the treasury could be met without resorting to the use of small debentures they would not be issued. As a matter of fact, though the Government obtained the authority desired they did not exercise it, and before the middle of 1850 the government notes had ceased to be a factor in the currency of the country.

As already indicated the Canadian banks had lost very heavily as a result of the crash in Britain and the consequent fall in the value of Canadian exports, on the security of which the banks had advanced large sums. They also lost as the result of many bankruptcies in Canada, especially among houses dealing with Britain. The banks naturally curtailed their accommodation, business was stagnant, and there was the usual scarcity of money under such circumstances. Now this scarcity of money, instead of being taken as a symptom of the times, was directly attributed to the action of the banks, who were liberally abused in several of the leading newspapers of the day for their penurious disposition in the matter of discounts. As the *Globe* put it, the banks seemed to have retired from business, and to this was traced the prevailing stagnation of 1848. No doubt the banks, under the atmospheric influence of good times, had been rashly liberal in discounting, and under the opposite influence had become abnormally cautious. But to attribute the scarcity of money and the dulness of trade to the perversity of the banks was simply to reverse the order of cause and effect.

The Bank of Montreal, in reply to enquiries on the part of the *Montreal Witness*, gave four chief reasons for its curtailment of advances to the public.

1st. The severe losses of the bank, amounting to nearly £100,000, by impairing its reserves had diminished its power to discount.

2nd. The general prosperity of the country during inflation had caused the business of the bank to become more

extensive than its capital warranted, and the bank must in any case have fallen back within a safer limit.

3rd. The class of paper lately presented for discount had been so very uncertain in value and security that the bank could not safely extend its discounts, no matter how able or willing.

4th. There had been a diminution of Canadian business in proportion to the restriction of the banks.

Seeking to arrive at the lesson of experience the *Witness* arrived at the very sensible conclusion that the banking institutions did not, after all, exist for the public convenience, since the practical logic of that would be the mutual ruin of the banks and the public. The primary object of the banks, it was found, was to lend the money of capitalists with the maximum of profit and safety to the lenders, and their normal error was likely to be on the side of overlending. This, however, was not the popular opinion of the time, as it had not been during the previous crisis ten years before, and was not to be during the succeeding crisis ten years later.

The relative standing of the banks during 1848 may be gathered from the following statement, showing the rate of the last dividend, and the price at which the stock stood:—

Bank.	Last dividend.	Market price of stock.
Bank of Montreal .....	6	2 p.c. premium
Bank of British North America.	5	7½ p.c. discount
Commercial Bank .....	7	¼ p.c. premium
City Bank .....	None	20 p.c. discount
Bank of Upper Canada.....	4	10 p.c. discount
Banque du Peuple .....	7	Nominal

The price of bank stock continued to decline for some time. In 1849 all were below par, and not until March, 1850, did Bank of Montreal stock again rise to par, while some of the others slowly followed.

From time to time before the Union of the Provinces the banks had made tentative efforts to have their transactions

freed from the stringent usury laws then in force. The legal rate of interest, without exception, was limited to six per cent. Anyone who accepted a higher rate was liable not only to lose the money loaned but to be sued by anyone who cared to enter suit, and to have recovered from him treble the amount originally loaned. Yet notwithstanding the severity of the law it was systematically violated and evaded.

In Britain, after a long struggle, led in the House of Commons at first by Mr. Onslow, and later by Mr. Poulett Thompson (afterwards Lord Sydenham), the usury law was amended in 1834 to the extent of allowing bills of exchange and promissory notes, not exceeding three months date, to be discounted at any rate of interest that might be agreed upon, without the parties incurring the penalties of usury. In 1840 the provisions of the act were still further extended to all notes and bills of exchange having not more than twelve months to run.

These changes in the British law gave encouragement to the banks and monied interests in Canada to undertake a regular agitation for similar amendments to the law in this country. When Lord Sydenham arrived as Governor the proposed amendment found in him a ready friend. Hence it was in 1840 that the first bill to amend the usury law was introduced in the Legislature of Upper Canada, but it got no further than its second reading. During the first session of the Union Parliament a bill to amend the usury law was passed by the Legislative Council and sent to the Assembly, where it was lost only by the casting vote of the Speaker, Mr. Cuvillier. Thereafter the French-Canadian votes in the Assembly steadily prevented the success of the yearly effort made to get a bill through the Lower House. In vain did petitions from boards of trade and other bodies pour in upon the Assembly, in vain did legislative committees report in favor of amendment, pointing out, with all manner of evidence and argument, that the existing law resulted in greater hardship to the borrowing class than if freedom of contract in such matters were permitted, in vain were attempts made to break down the law little by little through modest amend-

ments permitting this, that, or the other class of banking or loan investments to be exempted from the penalties for usury, there remained year after year quite a sufficient majority to defeat the object in view. Meantime, a number of projects for the investment of British capital in Canada were crippled or altogether discouraged in consequence of the usury laws in force. Little argument was employed in defence of the law as it stood; there was simply religious prejudice, or a vague conviction that without severe restrictions the innocent public would be systematically victimized by all manner of extortionate transactions in the way of money lending. Persistence, however, had its ultimate reward in Canada as in Britain, and at last a modification of the usury law was obtained in 1852, which was still further extended in 1858. These amendments relieved the more important money-lending transactions of corporations and individuals from the penalties of the usury law. The ordinary legal rate of interest remained at six per cent., but banks were permitted to exact seven per cent. Special contracts for interest might be made at any rate, and payments freely made and received at rates above the legal standard could not be recovered, nor any penalties exacted in connection with them. Thus was this troublesome matter set at rest for a time, and the development of the country relieved from an incubus which discouraged the investment of foreign capital.

ADAM SHORTT.

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### EUROPEAN MONEY IN NEW YORK.

It is estimated that from \$50,000 000 to \$75,000,000 has been loaned by European banks and bankers in Wall Street within the last fortnight. Nearly half of the latter sum is believed to have been loaned last week, inducing the remarkable 50-point decline in sight drafts in one day, as the result of the heaviest volume of sterling loans ever negotiated in New York on a single day. The movement took some of the best-known experts by surprise.—(Exchange).



## THE INTER-DEPENDENCE OF TRADE AND BANKING.

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BY GEO. H. POWNALL, FELLOW OF THE INSTITUTE OF BANKERS.

**I**F we examine the balance-sheet of any bank, we find that the banker has a dual relation to the public. He is, on the one hand, a borrower of credit, and, on the other, a lender, and the first condition of success, either for the private banker or joint stock banker, is that he shall so command the public confidence that the public shall freely lend him money. That is equal to saying that his undisturbed and continuous command of deposit money shall be on a great scale.

It is patent that unless a bank holds considerable deposits it cannot trade on a large scale. A consideration of the case of new banks that have yet to win the confidence of the public will make the point clear.

For the first few years the return to shareholders is frequently under 5 per cent., and even when prudent management and the mere fact of living on has given the new bank a footing, the dividend return to shareholders will increase slowly, for two obvious reasons; one, the need for building up reserves, public and hidden, providing for depreciation of buildings, etc., and, too, because the relative proportions between the capital and the deposits of the bank will be too equal to admit of a large dividend. We have always to bear in mind that if the bank's capital be, say, 50 per cent. of the money employed, and its deposits only equal its capital, then the margin of profit earned on deposits can make only a modest addition to the return on shareholders' capital. It is when time and confidence have altered the proportion of shareholders' capital to some 7 per cent. of the total capital employed, that dividends become fat, and the public marvels

that they are so great, but does not always remember that a profit of 1 per cent. on £44,000,000 of deposits equals a dividend of 22 per cent. on £2,000,000 of capital. This is an illustration, as artists would say, drawn from life. But further consequences follow from the lack of large deposits. For instance, in the Bank of England return for the week ending 31st January, 1900, there are two changes of about a million pounds each, viz., the "public deposits" are down about that sum, and the "public securities" are down exactly a million. That is to say, the Government paid off a loan of a million pounds. I ask: Could a bank, with total deposits of one million pounds, lend the whole amount of its deposits either to the Government, or to a private person, or to a public company, and continue to exist as a bank? The naiveness of the question is amusing, because the answer is so obvious. But, in an exaggerated form, the illustration contains the key to much sound or unsound banking. In this case, we instinctively detect the reason why the small bank cannot afford to deal with a great obligation. The operation is too big for its resources. I chose this particular illustration because a loan to the Government is perfectly safe, and the question of risk is therefore eliminated, but although the loan is a good one as regards safety, yet it is a bad one from the banking point of view, because it locks up all the means of the bank in one direction.

Having, by an exaggerated example, gripped the reason, it is easy for us to amplify the illustration.

If *one* great operation be too onerous for a small bank, it follows—does it not?—that a small bank, I mean a bank with a small amount of deposit money, cannot prudently undertake the conduct of a great business account, or of several great accounts, which demand the use—the safe and legitimate use—of large sums of the banker's deposit money. The question we are considering is one of proportion, and from the point of view of the banker, having the use only of small amounts of deposit money, has a gravity of its own entirely independent of the question of the safety of the business.

Modern business tends more and more to be done on a great scale; the needs, the legitimate needs, of individual firms or companies are greater, and the small banker is in the nature of things cut off from conducting such business, or, if he does conduct it, he does so by putting too many of his eggs into one basket, and by denying to the bulk of his smaller customers, or supplying with difficulty the accommodation they naturally look for. There is, therefore, a relation between the two sides of the balance-sheet of a bank, which is quite apart from the business question of the safety of the individual advances made by a banker to his customer. I make these reflections because the new form that the organization of some of our great industries is taking—that is, by combination and by amalgamation, means the rise of firms and companies whose finance may demand the seasonal use of huge sums of bankers' money quite beyond the power of a small banker to supply, or beyond the limits that prudence would impose upon him. And perhaps you will pardon me if I digress for a moment from the direct sequence of the illustration to mention two considerations that may be of practical importance to bankers, and to the whole trading community, in consequence of this changing organization of industry. The considerations are these. Many of the manufacturing and industrial concerns of to-day have created, and are creating, mortgage debentures which constitute a preferential charge on all the assets of the company; and yet such companies from time to time require to lean on their banker.

In the heyday of prosperity these blanket debentures may not always appear to present a serious obstacle to granting of facilities, but there they are, preventing the banker and the ordinary creditor, in case of the failure of the company, from coming in to take their *pro rata* share of the assets. It will be said, "There is the protection of the shareholders' capital." That is true; but with mortgage debentures sponging up all available assets, the position of deferred creditor is not a sound one for the banker to occupy. Assets that were ample

for a going concern dwindle ominously when the firm goes into liquidation.

The existence of mortgage debentures makes the banker a postponed creditor, and at the same time, the inducement to directors to give guarantees or other collateral security for such advances, is considerably less now than was the inducement to partners in the old unlimited concerns. More than that, as the new companies shed the rich directors who have effected the amalgamations, where will the class of men directly interested in the well-being of the companies be found who will be able and willing to give guarantees and security?

The principle of consolidation, of amalgamation, of combination may be a good one, but, if the great limited trading companies, with blanket debentures, that are so rapidly springing up around us, are largely to borrow bankers' money, it would appear to be necessary that some provision shall be made for placing loans to them on a better footing than that which makes the banker and the trader deferred creditors. For example, Messrs. A. & Co., Limited, have issued mortgage debentures which, to the great satisfaction of their holders, are secured by a trust deed, including a mortgage on the whole of the works, land, plant, and undertakings of the company, and by a floating charge on its remaining assets. The debentures amount to half a million, and the share capital is divided equally into a quarter of a million cumulative preference shares and a quarter of a million ordinary shares fully paid. The company has undertaken large obligations, and for a time with success, but in the mutations of trade it has come about that the ordinary shareholders for some years have had no dividend, the 5 per cent. cumulative preference shareholders have been calculating what their arrears amount to, and the company has strained every nerve to pay the interest on its debentures. The banker is appealed to. "Did you say security?" "We thought that our long connection would entitle us to your consideration."

"But," you answer, "look at the general position of your company," and then you suggest a lien on raw material.

They are sorry, but the brokers hold that; the directors prefer not to give guarantees, and if the bank will not consider favorably the pressing needs of old friends—needs which *may* disappear at the next revival of trade—why, the company has no alternative but to accept, with deep reluctance, the kind offer of Mr. Blank, who will supply the badly-needed money at a low rate of interest and a reduced commission. We are not called upon as an article of faith, to believe in the existence of Mr. Blank, he *may* be a creation of the mercantile imagination. Pray do not let me make myself misunderstood. I realize that every advance is made on its own merits, but for the huge accounts of the great industrial concerns there may arise a bankers' competition that would prevent a resolute facing of the fact that money lent to such concerns ranks behind blanket debentures. The essence of the contention is this, that in the formation of companies their preferential borrowing powers should not be exhausted by an issue to the public, but power should be reserved to issue *pari passu* some debenture capital for banking security, and to give a reasonable security to trade creditors.

Experience goes to prove that money raised on debentures is generally absorbed into the fixed assets of the company, and even in the case of prosperous companies, for a banker to rely on general credit when he cannot avail himself of assets, is not satisfactory. The banker is the trustee of the public, because his deposits are public money. It is not in the public interest—using that expression in a large sense—that companies whose assets are all mortgaged shall trade on the same footing as concerns where failure means that creditors take the benefit of the whole estate. Either by limitation of proportionate amount, or by limitation of the assets pledged, the public interest demands that the creation of blanket debentures shall be controlled so that there shall be free assets. The interests of bankers are in this identical with the public interests, because the general stability of the trading community is of the first importance to the banking world, and anything that militates against *that*, must be detrimental to the position of bankers.

A full disclosure of all mortgages and debentures would be a first step. But what I feel most strongly is this, that bankers are not only lenders of money, but they are also borrowers. They ought not to discriminate. They may save a *direct* loss by holding a blanket debenture, but they may incur many indirect ones, by weakening the position of customers who have traded with a bankrupt company whose assets have gone to the holder of the Blanket Mortgage Debentures. On balance, the general interest is also our own special interest.

We started by recognizing that the relation of the banker to the public is a dual one, that of borrower and that of lender, and it is in the public interest that there shall not be created a new class of risks which would greatly lessen the average safety with which bankers are able to employ the public monies.

Logically and prudently, risks of this class should, if undertaken at all, be treated on the footing of doubtful lives, and be charged higher rates so as to cover the risks, but unless bankers generally have the wisdom to stand together in this matter, they will be compelled in detail to assume obligations which they disapprove, and which collective action would greatly mitigate.

The shrewd and experienced men who float many of our industrial combines would not be slow to recognize the advantages to their concerns which would flow from a provision in their articles and memoranda of association which made it certain that banking facilities—whether by way of overdraft or discount—would, if needed, be forthcoming on the best terms. Such business would then be not risky, but first-class.

The second digression I wished you to permit me to make was this. Experience has taught the great insurance offices to divide their risks. It may be prudent in dealing with risks too great for any one bank, to imitate that policy, but then in the matter of rates, there is agreement among insurance offices, and competition is competition in courtesy.

To return to the question of deposits. Without great deposits, as we all recognize, a banker cannot undertake large business. It appears, but it is not really, curious how the public give their confidence in the shape of deposits more largely to some institutions than to others. But such is the fact, and the reason we will discuss later. Without those deposits, bankers could do little for trade. If the trading activities of the nation increased, and the loanable capital at the disposal of the bankers did not grow in a corresponding degree, then trade would languish, because the shortness of supply would have the result of raising the price for the use of capital to the trader. We saw this at the close of last year, when the bank rate was 6 per cent., and bills were discounted up to 7 per cent. That was a temporary matter, but anything that diverts the natural increment of banking deposits is of serious importance to the whole community, because shortness of loanable capital pinches trade. Hence the competition of the Government Savings Banks that offer artificial inducements to depositors is to be deplored. Some cynical members of the public think that this is a matter of self-interest to the banker, but to think thus is to ignore the fact that the banker of to-day is a salaried officer of a public company, who, from his official connection with banking, is singularly well placed for judging of the fairness or the unfairness of Government competition, or, indeed, of any competition to which he may be subjected, and the subject of competition, the root of which is, of course, the rate of interest allowed, has great practical importance for the public.

Some bankers, notably the Bank of England, do not allow interest on deposits—with the practical result that the Bank of England lives in a world of its own. It has been suggested to me by a great financial authority, that the reason why bankers do not keep sufficient proportionate cash reserves is because they allow interest on deposits, and that if they were to cease to allow such interest, they could afford to keep greater reserves; therefore, the solution of *that* question is to cease to allow interest. But my answer is, that the suggested

solution is not a practicable one. We *must* allow interest, but as a matter of public safety, the rate of allowance should **not** be excessive. To buy your deposits too dearly is to make it necessary, where possible, to sell them dearly to the public—that is, you must charge high rates, or employ up to the hilt, or both; but we find ourselves travelling here in a vicious circle. Deposits bought too dearly must be fully employed, because the agreed interest has somehow to be earned. But the fact of having paid too much for the use of deposit money does not necessarily imply that a correspondingly increased charge can be made to the public. In time of *temporary* pressure, such as that experienced in December last, a higher rate of charge was possible, and legitimate scarcity produced dearness. But in ordinary times competition amongst the banks prevents that, because the earning of interest is compulsory. To pay too high a rate of interest to depositors is not to shift the burden from one class of the public—the lenders—to another class—the borrowers, but it is to diminish the profit margin of the banker. The fact that some bank is willing to pay a little more interest than its neighbors compels it to employ the money so attracted, and the general rate of interest obtaining in a country like England has its effect in preventing the bankers' charge on loans becoming an excessive one. It is well known that it is the margin of scarcity or superabundance that determines prices, therefore the offering of facilities at a lower than the standard rate effectually lowers the standard rate. I am not advocating high charges. No banker who knows his business will try to squeeze his customers. But we should all try to think out the meaning of our dual relation to the public as borrowers and lenders of credit.

In the business of banking, we have to provide for the interest to depositors, the cost of running the business, provision for bad debts, and, lastly, profits. All these must come out of the employment of the banker's capital and deposits.

If too much is paid for the use of deposit money, corresponding risks must be taken, or inadequate reserves main-



tained, and too small a proportion of deposits invested in first-class securities. From all forms of risk the Government Savings Banks are exempt. *They* do nothing for trade. The halting official experiments of the Treasury in the elements of finance are paid for out of the public funds. If the Treasury declares that because Consols are at 114, the Savings Banks fund is solvent, we can only express thankfulness for the information, and if some anxious soul ventures timidly to ask the Chancellor whether the same fund is still solvent with Consols at 90, why should we wonder that the troublesome fellow is practically reminded that such things are too high for him. To allow political considerations to interfere with a business operation, be that operation small, or of vast national importance, is to court disaster. That is, in effect, what successive Parliaments, Chancellors of the Exchequer, and the Treasury Department do in their dealings with the limit placed on deposits in savings banks, and on the rate of interest allowed to depositors. The principle of all finance—whether Government or private—should be to buy at a rate that ensures a profit.

The question for bankers finally resolves itself into one of margin between the rate of interest allowed to the public, and the rate charged to the public, that is, to leave a profit margin. I look upon the question with absolute dispassionateness. It is a grave one, involving not merely the interests of shareholders, but ultimately the stability of our banking system.

Pray do not understand me as suggesting that competition will ever go the insane length of imperilling the safety of that system, because I believe that long before that became a possibility a general understanding would minimize an evil that exists, and should be discussed.

Someone will remark that in a large bank the percentage of expenses to gross earnings is less than in a small bank, and that the public get the advantage of the margin of saving. That may be quite true, and the public are entitled to any such advantage. We have set out the balance-sheet of one of our great English banks, with the figures thrown into the form of percentages.

## BANK BALANCE SHEET—IN PERCENTAGES.

Capital Subscribed .. ..	15.92	} 18.65
Reserve Fund .. ..	2.73	

DR.

CR.

LIABILITIES.		ASSETS.	
Capital—Paid-up .. ..	3.98	Cash in hand and at Bank of England .. ..	15.36
Reserve Fund .. ..	2.73	Loans at Call and at Notice covered by Securities .. ..	6.59
Deposit and Current Accounts ..	89.84	Investments (Government and Railway .. ..	20.73
Acceptances (covered by Cash, Securities or Bankers' Guarantees) .. ..	2.75	Discounted Bills Current ..	20.24
Rebate on Bills .. ..	.12	Advances to Customers .. ..	33.50
Net profit for Half-year ..	.70	Liabilities of customers for drafts accepted by the Bank, as per contra .. ..	2.75
Transferred to Premises..	.05	Premises .. ..	.83
	.65		
Carried on Reserve Fund..	.20		
	.45		
Balance of Profit and Loss from last Account ..	.13		
	— .58		
	100.00		100.00

## PROFIT AND LOSS ACCOUNT. (In terms of the above).

DR.

CR.

LIABILITIES.		ASSETS.	
Interest paid to Customers ..	.40	Balance brought forward ..	.13
Salaries and other Expenses .. ..	.53	Gross Profit .. ..	1.74
Transferred to Premises Account .. ..	.05	(Net Profit see above).	
Transferred to Reserve Fund .. ..	.20	After transfers to Premises and Reserve Fund ..	.45
Dividend and Bonus .. ..	.44		
Rebate on Bills .. ..	.12		
Balance carried forward..	.13		
	1.87		1.87

One does not wish to make an object lesson of any particular institution, so I have suppressed the name, and turned the figures into decimals. The dividend paid to the shareholders for the year was 22 per cent., but the gross profit on the whole of the capital employed in the business, *i.e.*, the bank's capital and reserve fund, and the deposits of customers, was 1.74 per cent. only.

This suggests some interesting and important considerations, with which, with your permission, I will proceed to deal.

The gross profit was, as we have seen, 1.74 only on the total amount of money employed. Let us analyse the allocation of this gross profit.

The customers got in the shape of interest.. . .	.40
Salaries and expenses absorbed.. . . .	.53
Premises reduction .. . . .	.05
Reserve Fund. . . . .	.20
	— .25
Rebate on bills .. . . .	.12
Dividend and bonus .. . . .	.44
	<hr/>
Total .. . . .	1.74

The interest allowed to customers absorbed practically half the *net* profits of the year, and the rate per cent. allowed to them could not have been materially raised without causing the dividend to disappear or the insurance against loss in the shape of addition to the reserve fund to be diminished, or the necessary depreciation of premises to be neglected. I am going into this point with some minuteness, because some persons inconsiderately point to the small rate of interest allowed by bankers, and to the large dividends received by the shareholders of some of the old, well-established, and successful banks, and believe that as a class depositors have a legitimate grievance against bankers, because depositors apparently receive so little, and shareholders so much; and it is well to be able to give an honest and decisive answer to such criticism.

Let us, in the first place, remember that bankers perform many services to the public without charge, such as the collection of coupons, the care of securities and valuables, and the receipt of dividends for customers. They also frequently allow cheques to be drawn free of commission on accounts on which the balance is only a moderate one; and their only

remuneration is the margin per cent. which they make in the difference between the rate allowed to the depositor and the rate earned.

Taking the figures of the balance-sheet before us, we find that to have increased by  $\frac{1}{2}$  of 1 per cent. the rate of interest allowed to depositors would have absorbed the whole of the dividend and bonus of the year; to have raised the rate of allowance by  $\frac{3}{4}$  of 1 per cent. would have absorbed the whole of the profits of the year, namely, dividend, bonus, provision for the reserve fund, and depreciation of premises; and this would have left the shareholders absolutely without return on their capital.

The *Economist* for the 10th February gives the net percentage of profits to total resources of the purely Metropolitan banks for the half-year ended 31st December last. These banks held 90 millions of deposits, and paid dividends respectively of 16, 12, 13 and 7 per cent., but their net average percentage of profits to total resources was only 13c. 7d. per cent. It should, however, be stated that the average for banks with country branches is considerably higher than this. We get a very practical point here. If we have an account with an average balance of £100, an account on which no commission is paid, what services can we afford to render for a net remuneration of 13s. 7d.

In these figures we get the answer to a suggestion frequently—though I admit somewhat irresponsibly—made of late years that customers should take a share of the profits. Banking would not be possible if its present lines were seriously changed. We have to bear in mind that the business of banking, like every other kind of business of long standing, has evolved itself by daily-accumulating experience. I believe that depositors cannot expect a greater return than they now obtain, unless there were some general change in the supply of, and the demand for, loanable capital. Bankers do not take in deposit money as an investment for the depositor. The money comes in at the will of its owner, without notice, and is withdrawn without notice. That consideration governs

the employment by bankers of their deposit money. They have individually to judge from the circumstances of their particular business what percentage of cash to their total liabilities they need to keep in their tills, what percentage of cash they shall keep unemployed to ensure the public confidence in the stability of their institution, and what percentage of their liabilities to the public shall be represented by first-class securities, and first-class securities so written down in price that nothing but an extraordinary public catastrophe shall reduce their selling price below the figures at which they appear on the balance-sheet, and so produce an apparent deficiency in the assets of the bank. To keep money unemployed is to lessen earning power; to hold first-class securities is to obtain less than the average rate of return on money employed in overdrafts, and to write them down to a safe level is a form of insurance that expert opinion demands of a banker.

It is not only from within that these matters have to be looked at, it is also from without. There is a large class of the public perfectly able to reckon up the safety or otherwise indicated by the broad lines of a bank balance-sheet, and, in the long run, the strongest institutions get the deposits. Paradoxical as it may seem, a banker's balance-sheet must exhibit an ability to pay any proportion of the banker's liabilities likely to be called for by nervous people in times of stress, not merely because the call for repayment needs to be faced, but also because to exhibit strength is to disincline people to make the demand. We have already discussed the reason why an old and stable bank frequently is able to distribute a large dividend per cent. to its shareholders; that reason being that the responsible paid-up capital of the bank bears a relatively small proportion to the deposits, and a fractional return on the larger sum equals a large percentage on the smaller one. In cases where the paid up capital of the bank is backed up by a large, adequate subscribed and responsibly held unpaid capital, the public has no cause of complaint because the directors choose to employ a relatively

small percentage of the shareholders' capital in the business, and so show a very high rate of dividend return, at the same time keeping the public ensured against loss by the uncalled liability of the shareholders. The shareholders of the bank are responsible for the repayment of the deposits of the customers, any losses fall on the shareholders, not on the public, except in the extreme cases of failure which sometimes sadden the community. But it is reasonable that the public shall have the protection of an adequate subscribed capital proportionate in amount to the total liabilities of the bank. It is easy to show a high rate of return to shareholders, if shareholders' capital in the business is at a minimum as compared with large liabilities to the public. In the balance-sheet before us the proportion of paid-up capital and reserve fund to liabilities is 6.71, but if the unpaid capital be added, the proportion of capital to liabilities becomes 18.65, and the rate of return on the liability of the shareholders is reduced to  $5\frac{1}{2}$  per cent. But the analysis of items in the accounts before us—accounts that relate to many millions of money—shows that although the percentage of subscribed capital and reserve fund to liabilities is only 18.65, yet the public has a protection in the mode in which the funds of the bank are employed. Subscribed capital, reserve fund, cash, loans at call, investments and bills discounted are equal to 81.57 per cent. of the liabilities to the public.

The public does not always know the thoughtfulness with which bankers examine the assets side of their balance-sheet, and the anxiety that they feel that the item "Advances to Customers" shall not grow disproportionately to the other items. That is what is meant by a balance-sheet showing a "liquid position." In most cases of banking difficulty the root of the evil is in the item "Advances to Customers." The Bank of England, as you know, has all its capital paid up, and the proportion of capital and reserve to liabilities is roughly 22 per cent. It is a fair question as between the public and individual banks whether the protection given in the form of shareholders' capital and reserve funds is ade-

quate. The only inference I wish to draw from this is that the mere fact of a high rate of dividend being paid is no criterion of the soundness or otherwise of the particular bank. We have seen in the figures before us a very liquid position, but in the conceivable case of management that failed to maintain this liquid position by allowning advances to customers to grow while cash and investments proportionately declined, then the fact comes nakedly out, that—the totals remaining constant—the total protection to the public is ultimately 18.65 of the liabilities. Therefore the public has an interest in seeing that a banker's balance-sheet exhibits a liquid position. It may be well for us to contrast the figures set out with percentages that illustrate the general position of the joint stock banks of England and Wales.

Taking the deposit liabilities of the whole group as £571,000,000, we find that paid-up capital and reserves are 13.37 of their deposit liabilities to the public, and their subscribed capital and reserves equal 40.77 per cent. of their deposit liabilities to the public. Breaking the figures into groups, we obtain the following:—

- (a) Banks each with deposit liabilities over £30,000,000.  
Deposit liabilities to the public £202,000,000.

Percentage of paid-up capital and reserves to liabilities 9.65.

Percentage of subscribed capital and reserves to liabilities 31.77.

- (b) Banks each with deposit liabilities between £10,000,000 and £20,000,000.

Deposit liabilities to the public, £74,924,509.

Percentage of paid-up capital and reserves to liabilities, 13.09.

Percentage of subscribed capital and reserves to liabilities, 49.72.

- (c) Taking an individual bank from the last group:

Total deposit liabilities to the public, £12,683,391.

Percentage of paid-up capital and reserves to liabilities, 12.22.

Percentage of subscribed capital and reserves to liabilities, 53.61.

Much of the reason for the higher rate of dividend in the group of banks holding the largest individual deposits becomes apparent in these figures. The banks with the greatest liabilities have relatively a smaller capital of their own employed than the average of the whole of the banks. I repeat the figures:—

The whole of the joint stock banks ..	40.77	13.37
Banks having over £30,000,000 deposits	31.77	9.65
“ “ between £10,000,000 and		
£20,000,000 .. .. .	49.72	13.09
One bank from last group .. .. .	53.61	12.22

I have not spoken of principles; most people dislike them in business. I have considered facts and their natural relation to one another, and that is what we are asked to do in carrying on our daily work. Up to this point we have mainly considered the relation of bankers to the lending public. The 810 or 820 millions of money entrusted by the public to the banks is the national contribution to the commerce of the country. Each person who keeps a banking account does so for his own convenience; but the result is an enormous control of credit placed at the disposal of the banking community. The steadiness of the amount of these deposits, the fact that by the operation of the law of average, they can be relied on to remain fairly constant in amount, and that except in very bad times they gradually increase, is the basis of the credit system of this country. Without there were a general diffusion and a persistent accumulation of national wealth these deposits could not exist.

One of the great factors in British commercial greatness is, and has been, the control of vast sums of liquid capital.



It has been, and it is possible to apply—I had almost said instantly—but certainly quickly, to the development of any new industry sufficient British capital in adequate amounts. This is an incalculable advantage. I do not want to indulge in a moral lecture about foreign competition, the need for a better system of education, or to dwell on the fear that we may fossilize until we become so conservative that we shall be the Chinese of Europe. I prefer to stick closely to our subject, asking you to allow this little digression, so that we shall not appear to be singing a song of triumph in a fool's paradise. Given other equal conditions, new inventions, new processes, new industries are apt to settle where there is loose capital to carry them on, and develop them. That advantage we possess, but it is an advantage appreciated in foreign countries—notably in Germany—and the practical German mind has paid us the delicate—and to us dangerous—compliment of imitation. I found it impossible to discuss the liability side of the balance-sheet without frequent excursions to the assets side, because, like trade and banking, the two sides are inter-dependent; but I shall now endeavor to consider the meaning and the relation of the items “Bills discounted,” “Advances to Customers,” and “Liabilities of Customers for drafts accepted by the bank.” The possession of a good bill-case is a well-recognized advantage. There is always an interval between the time at which raw material is bought, and the time when it can be turned into something manufactured and ready for consumption. Herein, with an infinite variety of applications, is the reason for mercantile bills of exchange, and herein, given honesty in the creation of such instruments of credit, lies their safety and their usefulness to the trader and to the banker. The banker controlling liquid capital buys the debt due to the merchant, and waits the three, four, or six months until the account becomes due, taking as his voucher that acknowledges the debt, and fixes the date of payment, the bill drawn by the creditor on his debtor. If there were no banks to deal in credit this would be impossible. Bankers are the managers of the stored up savings, or unem-

ployed capital of the country, and if they had not this vast reservoir of credit to draw upon, they could not discount the recurring bills of merchants. I said "given honesty in the "creation of such instruments of credit," and by that I need hardly remind you, is meant that the bills shall represent a real purchase and a real sale of commodities. It is the fact of the possession of unemployed capital that enables the banker to discount the bills; it is the ability to obtain the use of this capital that enables the merchant and the manufacturer again and again to turn over their capital in a twelve-month. In the old merchant adventurer days, the merchant loaded his ship and took one of those long, daring trading voyages down the Mediterranean or the Spanish Main, such as that so vividly drawn in "Westward Ho!" and he and his scurvy-stricken crew bartered from port to port in perils as great as those that befel Paul when Agrippa sent him to appear before Cæsar. If the ship came safely back, the adventurers shared the oftentimes princely profits, but the stormy uncertainties of the sea, as merchants knew them in those days of peril, are summed up with masterly art in the "Merchant of Venice." You remember, as the play draws to its close, Antonio is told by Portia, that "three of your argosies are richly "come to harbor suddenly."

Those were not the days of superabundant wealth richly endowing trade, but a dreamland time, with Dick Whittington sending his cat as his share of the common venture. There could not then be that exact fixing of the date when payment was due and would certainly be made.

A good case of bills automatically running off may be relied on to replenish the banker's store of loose money. Hence from a practical point of view the banker need only satisfy himself that the bills represent trading transactions, that the parties are good for their engagements, and that he does not get too large an amount in any one name. It is quite as easy, perhaps easier, to make losses by inattention to the quantity and quality of bills on an account, as to make losses on overdraft. The bills, as it were, hide themselves by

reducing the apparent liability of the customer on debit balance. But the law looks with deserved severity on the nefarious practices of the groups of men who from time to time attempt to issue bills of exchange which purport to represent buyings and sellings, but which are in reality accommodation paper. Such persons are dangerous, in so far as they shake confidence in the genuineness of the mass of mercantile bills, without which trade would be sadly hampered. It speaks much for the general standard of mercantile honesty that the vast transactions of merchants on bills of exchange are very rarely found to be fraudulent.

The more permanent form in which bankers help traders is by advances to customers. From the point of view of the banker, of the shareholder, of the depositor, and of the public, there are two highly important considerations arising out of this item. One, the proportionate amount to total liabilities; two, the nature of the advances. It is, I think, self-evident that the question of proportionate amount is important.

If the bank's resources are disproportionately locked up in overdrafts, every other item on the "assets" side of its balance-sheet must suffer.

There is a temptation to this. Overdrafts raise the gross and the net profits. If anyone will look through the half-yearly banking supplement of the *Economist*, he will find illustrations of this fact in the balance-sheets of banks that have lent out to customers an amount equal to, and in some cases exceeding the total of their deposits. That cannot be called a liquid position. Whatever be the merit of the particular account on which the money is lent, such a balance-sheet from a banking point of view invites criticism, for this reason. A banker who locks up the whole of his deposits in overdrafts has lost sight of the fundamental fact that he holds deposits repayable at call. He has ceased to be a banker, he has become partner, hence his banking position is full of needless anxiety. I do not dogmatise, my duty is to point to facts. I leave *you* to draw inferences. The balance-sheet before us

shows that 37 per cent. of the deposits of the bank are lent out in overdraft. In another balance-sheet we find that 52 per cent. of deposits are lent out on overdraft, and that the subscribed capital and reserve fund of the bank that lends 52 per cent. of its deposits slightly exceed the total amount due *from* the public, and the risk taken is therefore a shareholder's risk, and not a depositor's risk. Where there are such wide divergencies of practice, both can hardly be right. I dwell on this because the growth of the deposit system in England has caused a new sensitiveness of credit, and it cannot be in the public interest that some banks shall lock up their resources so absolutely that they are liable to break down at the first whisper of distrust. It is cynically true that in public affairs the punishment of evil falls alike on the innocent and the guilty, and the breakdown of a weak institution may bring with it unmerited trial to those institutions that have done their duty. If we could confine retribution to those who wilfully neglect sanitary precautions, we might pity the victim and be thankful for our prudence, but we know that an epidemic spares none, and hence our concern when we see unsound banking.

The second consideration is the nature of the advances made. I am not going to assume, for a moment, that an advance is ever made unless there is reason to believe that it is ultimately safe to grant it. In theory—and this is the first time I have used the word to-night—a banker makes loans or advances to his customers for temporary purposes; for the season's trade, to buy cotton, to pay for wool, timber, silk, grain—for many legitimate and, as I have said, temporary, purposes.

Such an employment of capital leaves it liquid. The banker has control. But we all know, as a matter of fact, that advances are made to business firms that are in their nature more or less permanent, sometimes consciously so, sometimes made so by force of circumstances. Advances on mills, warehouses, collieries, works—we can all think of appropriate illustrations—I point to these as requiring atten-

tion, not as things to be absolutely avoided. What percentage of such business can you afford to take? The firm whose capital is so locked up that it gladly pays an insurance to the banker for his advance, in the shape of full charges, is not an unknown genus to country bankers.

But what can you, in reasonable time, recover from such firms? And in case of their failure, what will the banker do with the worn-out works or the old-fashioned mill? He has become partner, frequently principal partner. In all businesses there must be a time of review, if success is to be maintained. The late Mr. Oliver Heywood once said that he and his partners regularly made an annual review of their position and risks, and this, of course, in addition to the vigilant current oversight of their business. The wisdom of one generation cannot outweigh the accumulated experience of all preceding ones, and the business practices that commended themselves to the Heywood family should not be lost on us. If we are to make advances which are in their nature dead loans, let us clearly define to ourselves the risks, and the amount of the risks we are taking.

The last item in the balance-sheet before us is that of "Drafts accepted by the bank."

There have been cases where this practice has been carried to excess—notably in the case of the City of Glasgow Bank; but there we had a hopeless, reckless abuse of credit bills. Within due limits and for proper purposes there is nothing to be said against this class of business. *The* point clearly to be remembered is this—drafts accepted against produce mature on a given day, and must be provided for whether the produce is converted into cash or no, and the bank's engagement is definite, even if the particular provision for meeting it is indefinite. Time does not permit me to discuss the question of advances to the Stock Exchange, although that is of great importance.

What I have striven to do is to define the position of bankers as buyers and sellers of credit, and the extent of their dependence on trade, and of the dependence of trade on

bankers. Change in conditions is inevitable in any society in which the vital forces of progress have not been burnt out, but the principles governing action are always the same. To borrow from the public, to lend again to the public, and to receive a remuneration that covers expenses and reasonable provision for losses is the business of a banker. He has to consider the conditions that beget public confidence in his ability to repay, and he has to shape his business so that his risks shall be duly spread, and that he shall not be a partner with any firm, but banker to all, depending on trade for his customers, and being leaned on by traders for reasonable help in their business operations.

I have not attempted to unfold before you the vast panorama of British trade as suggested by the returns of the London and provincial clearing houses, because you are quite familiar with the figures. All trading operations are reduced by bankers to the common denominator "money." I do not attempt to review the relations of British banks and British commerce with foreign countries, or to show how the demand for money in one great market affects all others. The course I have followed has been much more prosaic, but before we separate, I will ask you to pardon me if I generalize a little, and that for a few moments only on the facts we have been considering.

The countries of the civilized world are all eagerly seeking to advance their material prosperity by extending their trade. Modern discoveries are giving meaning to the half-lost, half-mythical history of the old civilizations, and where we had before a confused account of sieges and battles, of wars that were purposeless, and conquests of nations that seemed the fruit of the wanton lust of power, we are coming to know that men were moved to action in the old time before us by needs and desires such as those which animate us and our competitors to-day.

The trading activities of the ancients shaped their foreign policy just as the commercial rivalries of modern states at times threaten to call the world to arms. What is the

importance of Egypt? What the importance of the Cape? Wherein lies the glamour of Constantinople? They are keys of Empire, in that they are keys of trade routes.

One hears of spheres of influence in China—the Powers seek outlets for their trade. What is the meaning of the new Japan?—a new and formidable trading nation. In the new world political conditions forbid the economic rivalry of nations assuming a militant form, and we see the fight for trade supremacy unobscured by the application of force to obtain trading advantages.

In the East, commercial rivalries assume the form of pressure on Governments too feeble to resist the demands of Powers stronger than themselves. I put it to you simply that as whole orders of animals, whole orders of vegetation, have perished because they have been superseded by a fauna and a flora more fitted than themselves to survive, so industries, trading communities, institutions, and nations survive or pass away because of their fitness or unfitness. And I have a robust faith that the younger men are making ready for their work with a more perfect equipment than was possible to those they will succeed. Having this faith, I look with confidence to the future, because the minds whose powers are to be bent to the problem of banking will be trained minds—taking up a high and honorable tradition of faithfulness to duty, and linking to it the technical skill that is called for in this complex age.

With such an equipment we need not fear that we shall be found laggards in maintaining the efficiency of that great system of banking that to-day so powerfully assists to sustain and nourish British trade.

## FORGED AND RAISED CHEQUES AND FORGED INDORSEMENTS.

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BY A. W. P. BUCHANAN, ADVOCATE, OF THE MONTREAL BAR

THE subject of forged and raised cheques and forged indorsements is always one of wide interest to bankers and the question frequently arises, when a forged cheque is presented, upon whom the loss should fall.

A forgery may be described in general terms as the false making or alteration of an instrument or part thereof, which purports on the face of it to be good and valid, for the purposes for which it was created with a design to defraud.

The crime of forgery has, from all time, been regarded with the greatest severity, and, as late as 1837, was punishable with death. In Canada, everyone who commits forgery of any bank note or bill of exchange, promissory note or cheque, or any acceptance, indorsement or assignment thereof, is liable to imprisonment for life. The methods employed in this crime are as varied as they are ingenious.

Forgery may be effected by signing without authority the name of another—by fraudulently procuring a genuine signature, by the use of fictitious names—by the use of one's own name when also that of another—by fraudulently filling in blanks—by fraudulent alterations—and by making false entries in books.

The criminal law of Canada governing forgery is contained in sections 419 to 442 of the Civil Code of Canada.

The law regarding forged signatures and forged indorsements of bills and cheques will only be dealt with in this paper.

What then are the rights of the banker and the rights of the drawer? And in determining this question, the relations between the banker and the drawer, between the banker and



the owner, and between the banker and the payee, must be considered. A long line of decision beginning with *Price v. Neale*, <sup>(1)</sup> have authoritatively decided that the banker is bound to know the handwriting of his customer, the drawee is bound to know the signature of his drawer. The case of *Price v. Neale* decided in 1762, is the earliest, and still leading case on this subject. In that case, Lord Mansfield laid down the principle that an innocent indorsee cannot be compelled to refund the money paid to him on a forged acceptance.

This was an action brought by Price against Neale for money had and received to the plaintiff's use. Price, the drawee, had paid a bill of exchange which had been drawn against him and had accepted and paid a second bill of exchange. These bills had been forged and Price, the drawee, sued the holder Neale to recover back the money paid. The Court of King's Bench decided adversely to the plaintiff. Lord Mansfield said:—

“The plaintiff cannot recover the money, unless it be *against conscience* in the defendant to *retain* it; and great *liberality* is always allowed in this sort of action. But it can never be thought unconscientious in the defendant to *retain* this money, when he has once received it upon a bill of exchange indorsed to him for a fair and valuable consideration, which he had *bona fide* paid, without the least privity or *suspicion* of any forgery. Here was *no fraud: no wrong*. It was incumbent upon the plaintiff to be satisfied, “that the bill drawn upon him was the *drawer's hand*,” before he accepted or paid it; but it was not incumbent upon the *defendant* to inquire into it. Here was notice given by the defendant to the plaintiff of a bill drawn upon him; and he sends his servant to pay it and take it up. The other bill he actually *accepts*; after which acceptance, the defendant *innocently* and *bona fide* discounts it. The plaintiff lies by for a considerable time after he had paid these bills; and *then* found out, “that they were forged;” and the forger comes to be hanged. He made no objection to them at the *time* of paying them. Whatever neglect there was, was on *his*

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(1) *Price v. Neale*, 3 Bur., 1355.

side. The defendant had actual encouragement from the plaintiff himself, for negotiating the *second* bill, from the plaintiff's having without any scruple or hesitation *paid* the first; and he paid the whole value *bona fide*. It is a misfortune which has happened without the *defendant's* fault or neglect. If there was *no* neglect in the plaintiff, yet there is no reason to throw off the loss from *one innocent* man upon *another innocent* man; but, in this case, if there was *any* fault or negligence in any one, it certainly was in the *plaintiff*, and *not* in the *defendant*."

The rule thus laid down obtains to the present day, and very recently the principle which it enunciates was affirmed in the Privy Council.

As Heath J., said as far back as 1815, in *Smith v. Mercer* <sup>(2)</sup>:—

"The situation of bankers is most peculiar; they are bound to know the handwriting of their customers. If the law were otherwise, merchants making their bills payable at their bankers, would have this extraordinary advantage, that if a forgery be imposed on their bankers, the principal would not be the sufferer by it; whereas, if it were imposed on themselves, they must bear the loss, and so would exempt themselves from that liability which would rest on them if they themselves transacted their own business."

But a holder of a bill is entitled to know on the day when it becomes due whether it is an honored or dishonored bill, and if the holder receive the money and is suffered to retain it during the whole of that day, the parties who paid it cannot recover it back. <sup>(3)</sup> In *Mather v. Lord Maidstone*, <sup>(4)</sup> Jervis, C. J., said:—"As a general rule, the holder of a bill of exchange has a right to know whether or not it has been duly honored by the acceptor at maturity; and, when a bill is presented, if the acceptor pays it, the money cannot be recovered back, if the acceptor has the means of satisfying himself of his liability to

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(2) *Smith v. Mercer*, 6 Taunt, 76.

(3) *Cocks v. Masterman*, 9 B. & C., 902.

(4) *Mather v. Lord Maidstone*, 18 C.B. 273.

pay it, though it should turn out that the acceptance was a forgery."

And so, when a bill becomes due and is presented for payment, and is paid in good faith and the money is received in good faith, if such an interval of time has elapsed that the position of the holder may have been altered, the money so paid cannot be recovered from the holder although endorsements on the bill subsequently prove to be forgeries. <sup>(5)</sup> In this case Mathew, J., said:—"In *Cocks v. Masterman* the simple rule was laid down in clear language for the first time that when a bill becomes due and is presented for payment the holder ought to know at once whether the bill is going to be paid or not. If the mistake is discovered at once, it may be the money can be recovered back; but if it be not, and the money is paid in good faith, and is received in good faith, and there is an interval of time in which the position of the holder may be altered, the principle seems to apply that money once paid cannot be recovered back. That rule is obviously, as it seems to me, indispensable for the conduct of business. A holder of a bill cannot possibly fail to have his position affected if there be any interval of time during which he holds the money as his own, or spends it as his own, and if he is subsequently sought to be made responsible to hand it back. It may be that no legal right may be compromised by reason of the payment. For instance, the acceptor may pay the bill and discover on the same day that the bill is a forgery, and so inform the holder of it, so that the holder would have time to give notice of dishonor to the other parties of the bill; but even in such a case it is manifest that the position of a man of business may be most seriously compromised even by the delay of a day. Now that clear rule is one that ought not to be tampered with. It is one of the few rules of business which is perfectly clear and distinct at present, and, as it seems to me, it is unimpeachable."

A banker cannot debit his customer with a payment made to one who claims through a forged indorsement and so cannot

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(5) *London & Riverplate Bank v. Bank of Liverpool*, 1 Q. B. 7.

give a valid discharge for the bill, unless there be circumstances amounting to a direction from the customer to the banker to pay the bill without reference to the genuineness of the indorsement, or equivalent to an admission of its genuineness, inducing the banker to alter his position, so as to preclude the customer from showing it to be forged. (6) In this case Parke B., said:—"If this were an ordinary case of an acceptance made payable at a banker's, there can be no question that making the acceptance payable there is tantamount to an order, on the part of the acceptor, to the banker to pay the bill to the person who is according to the law merchant capable of giving a good discharge for the bill. Therefore, if the bill is payable to order, it is an authority to pay the bill to any person who becomes holder by a genuine indorsement. And, if the bill is originally payable to bearer, or if there is afterwards a genuine indorsement in blank, it is an authority to pay the bill to the person who seems to be the holder. The bankers cannot charge their customer with any other payments than those made in pursuance of that authority. If bankers wish to avoid the responsibility of deciding on the genuineness of indorsements, they may require their customers to domicile their bills at their own offices, and to honor them by giving a check upon the banker."

But where a bill of exchange (so called) is not in reality a bill but is in fact a document in the form of a bill manufactured by a person who forges the signature of the named drawer, obtains by fraud the signature of the acceptor, forges the signature of the named payee, and presents the document for payment, both the named drawer and the named payee being entirely ignorant of the circumstances, the bank is entitled to debit its customer, the acceptor, with the amounts paid over the counter to the forger, or his agent, by the bank bona fide and in pursuance of letters of advice signed by the acceptor, whose signature thereto was fraudulently obtained by the forger, a clerk in his employment. (7)

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(6) *Robarts v. Tucker*, 16 Q. B. 560.

(7) *Bank of England v. Vagliano Bros.*, (1891) A. C. 107.

On the other hand, the acceptor of a bill of exchange is under no duty to take precautions against fraudulent alterations in the bill after acceptance. This was decided by the House of Lords in the important case of *Scholfield v. Earl of Londesborough*, overruling the authority of *Young v. Grote* and disposing of it as a leading case. In *Scholfield v. Earl of Londesborough*, <sup>(8)</sup> a bill for £500 was presented for acceptance with a stamp of much larger amount than was necessary and with spaces left. The acceptor wrote his acceptance and handed the bill to the drawer, who fraudulently filled up the spaces and turned it into a bill for £3500. Being sued on the bill by a bona fide holder for value, the acceptor paid £500 into court. Charles J., before whom the action was tried without a jury, gave judgment for the defendant, and this decision was affirmed by the Court of Appeal and by the House of Lords, who decided that the acceptor owed no duty of precaution to the plaintiff, and was guilty of no negligence, and was entitled to judgment.

In 1826, <sup>(9)</sup> it was held that where a cheque drawn by a customer upon his banker for a sum of money described in the body of the cheque in words and figures, was afterwards altered by the holder, who substituted a larger sum for that mentioned in the cheque, but in such a manner that no person in the ordinary course of business could observe it, and the banker paid to the holder this larger sum, that he could not charge the customer for anything beyond the sum for which the cheque was originally drawn. Abbott, C. J., said:—"I am of opinion that the plaintiffs are entitled to recover. Bankers can only charge their customers with sums of money paid pursuant to order. Here, unfortunately, the bankers have *paid* more than the order authorized them to do; for by that they were directed to *pay* no more than £3. I have no doubt the bankers cannot charge their customer beyond that sum."

Bayley, J., said:—"The banker, as the depositary of the customer's money, is bound to pay from time to time such sums as the latter may order. If, unfortunately, he pays money be-

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(8) *Scholfield v. Earl of Londesborough*, (1896) A. C. 514.

(9) *Hall v. Fuller*, 5 B. & C. 750.

longing to the customer upon an order which is not genuine, he must suffer, and to justify the payment, he must shew that the order is genuine, not in signature only, but in every respect. This was not a genuine order, for the customer never ordered payment of money mentioned in the check."

In the case of *Young vs. Grote*, (10) decided a year later, the customer of a bank delivered to his wife certain printed cheques signed by himself, but with blanks for the sums, requesting his wife to fill the blanks up according to the exigency of his business. She caused one to be filled up with the words "*fifty pounds, two shillings*," the *fifty* being commenced with a small letter, and placed in the middle of the line:—in this state she delivered the cheque to her husband's clerk to receive the amount; whereupon he inserted at the beginning of the line in which the word "*fifty*" was written, the words "*three hundred and*" and the figure "3" between the £ and the 50. The bankers having paid £350. 2s.: it was held that the loss must fall on the customer.

The facts of the case were submitted to an arbitrator, who found that the bankers were entitled to retain the sum of £350.2.3, and that the customer had no legal claim against them, but stated a case in order to enable the customer to take the opinion of the Court of Common Pleas, whether, under the circumstances, he ought to bear the loss of that sum. That Court, evidently relying upon the authority of Pothier, in his *Treatise on Bills of Exchange*, commenting upon *Scacchia*, held that the loss must fall on the customer, on the ground of the customer's negligence. Best, C. J., said: "Although I entertain no doubt on the subject, this is a case of considerable importance, and the question has been properly raised by the arbitrator. Undoubtedly, a banker who pays a forged check, is in general bound to pay the amount again to his customer, because, in the first instance, he pays without authority. On this principle the two cases which have been cited were decided, because it is the duty of the banker to be acquainted with his customer's handwriting, and the banker, not the customer,

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(10) *Young v. Grote*, 4 Bingham, 253.

must suffer if a payment be made without authority. But though that rule be perfectly well established, yet if it be the fault of the customer that the banker pays more than he ought, he cannot be called on to pay it again."

This case has excited as much diversity of opinion as any other case in the books, and in the case of *Scholfield v. Earl of Londesborough*, decided in the House of Lords in 1896, Lord Halsbury, L. C., said: "The truth is that the whole doctrine that facilitates forgery, or giving opportunity for forgery, or so acting that a forgery is a possible result, effects the validity of the instrument forged, may be traced in English law, at all events, to the case of *Young v. Grote*, and probably beyond, to certain doctrines of the civil law, which, to my mind, form no part of the law merchant so far as it exists in English jurisprudence. That case has been pushed so far in argument that I think the time has come when it would be desirable for your Lordships to deal with it authoritatively, and to examine how far it ought to be quoted as an authority for anything. It is to be observed that when one looks at the judgments delivered there is an inextricable confusion, not only among the different judges, but in the judgment of each judge in turn."

The only effect of a bank initialling a cheque drawn upon it is to certify that it has funds of the drawer in its hands sufficient to meet its payment, <sup>(11)</sup> and where a cheque after being certified was fraudulently altered and paid by a holder for value under a mistake of fact which was not discovered until the next day, it was held by the Privy Council, in the case of the *Imperial Bank of Canada vs. Bank of Hamilton*, <sup>(12)</sup> that in an action by the bank that paid the money to recover back the excess from the bank that received it, that it was entitled to recover. The facts of this case were as follows:—

One Bauer was a customer of the Bank of Hamilton, and he drew a cheque upon the bank for \$5. The word "five" was written and a considerable space was left between that word and the next words printed on the cheque. The cheque

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(11) *Gaden v. Newfoundland Savings Bank*, (1889), A.C. 281.

(12) *Imperial Bank of Canada v. Bank of Hamilton* (1903) Appeal Cases 49.

was dated January 25, 1897, and on that date Bauer took it to the Bank of Hamilton and got it marked or certified with the bank's stamp. After he had got it marked he wrote in the word "hundred" after the word five; he then took the cheque as altered to the Imperial Bank of Canada and opened an account with it. The cheque was placed to his credit. He forthwith drew cheques upon the account so opened and these cheques were honored in the usual course of business. The cheque in question was passed by the Imperial Bank of Canada, through the Clearing House at Toronto, and was paid by the Bank of Hamilton on the morning of January 27, 1897, the fraud not having been then discovered. It was proved that certified cheques, apparently in order and presented through the Clearing House, are paid as a matter of course, and that it is not usual with bankers to turn to their customers' accounts on the day marked cheques are presented for payment through the Clearing House to see whether there is anything wrong before paying them. It was, however, usual to check the returns with the customers' account the next day, and then to enter the cheques paid the day before. In conformity with this practice the Bank of Hamilton paid the cheque on January 27 without looking at Bauer's account in their ledger; but on the next day they turned to it and at once discovered the fraud. The Bank of Hamilton immediately gave notice to the Imperial Bank of Canada and demanded repayment of \$495 being the amount paid by the Bank of Hamilton, less the \$5 for which it was drawn and certified. This demand not having been complied with, the Bank of Hamilton brought action against the Imperial Bank of Canada to recover the \$495.

The action was tried by MacMahon, J., without a jury, and he gave judgment for the plaintiff, the Bank of Hamilton. From this judgment the Imperial Bank of Canada appealed, and the Court of Appeal confirmed the judgment of the Court below. From this decision the Imperial Bank of Canada again appealed to the Supreme Court of Canada, which affirmed the decision appealed from. The Imperial Bank of Canada then appealed to the Privy Council, where their appeal was dis-



missed. The appellants claimed that the Bank of Hamilton was negligent in paying the forged cheque without first turning to Bauer's account, and also relied on the fact that notice of the forgery was not given to the Imperial Bank of Canada on January 27, the day on which the cheque was paid. Lord Lindley, delivering the judgment of their Lordships, said:—

“As regards negligence in paying the cheque: It cannot be denied that when the Bank of Hamilton paid the cheque on January 27, it had the means of ascertaining from its own books that the cheque had been altered. But means of knowledge and actual knowledge are not the same; and it was long ago decided in *Kelly vs. Solari* that money honestly paid by mistake of facts could be recovered back although the person paying it did not avail himself of means of knowledge which he possessed. . . . There was nothing on the face of the cheque to excite suspicion or to lead the clerk who cashed the cheque to take the unusual course of referring to Bauer's ledger account to see if all was right before cashing it.

Moreover, even if negligence in this respect could be imputed to the Bank of Hamilton, such negligence did not induce the Imperial Bank of Canada to treat the cheque as good, and to give Bauer credit for its amount. That had been done already. . . . The prejudice, which it is suggested that the Imperial Bank of Canada may have suffered, from want of notice of dishonor on January 27, consists in their inability to take proceedings on that day against Bauer for the fraud which he had committed. But no one suggests that Bauer could have paid anything if he had then been proceeded against. The bank was not deprived of any of its rights against him, nor was its position altered by reason of notice of the forgery not being given until the day after the cheque was paid. . . . The cheque as drawn and certified, *i.e.*, for \$5.00, was never dishonored, and no question arises as to that. The cheque for the larger amount was a simple forgery; and Bauer, the drawer and forger, was not entitled to any notice of its dishonor, by non-payment. There were no indorsers to whom notice of dishonor had to be given. The law as to the necessity of giving notice of dishonor has therefore no application.”

The position assumed by the Bank of Hamilton in the first instance was thus sustained by every court and received the approval of the Privy Council.

In the case of *Kleinwort, Sons & Co. v. Comptoir Nationale d'Escompte de Paris*, <sup>(13)</sup> it was held that cashing a bill according to the tenor of a forged indorsement is a conversion apart from any question of negligence, and this holding was followed in the case of *Lacave & Co. v. Credit Lyonnais*. <sup>(14)</sup> The facts of the latter case were as follows:—The defendant bank carried on business in London and had a branch in Paris. A cheque was drawn on the defendant bank in London in favor of the plaintiffs specially indorsed by the plaintiffs to a firm in London and posted for collection to that firm, but it never reached them. After the posting a forged indorsement was put on the cheque, and it was presented at the defendants' bank in Paris by a person, purporting to be the last indorsee, who had no account at the defendants' bank. The defendants paid the cheque, and sent it to their bank in London, who credited their bank in Paris with the value. The London bank refused to deliver the cheque to the plaintiffs. The cheque, when it reached the defendants was crossed generally. In an action for conversion of the cheque, it was held that the defendants, by paying the cheque, and forwarding it to their London bank, and crediting their Paris bank with the value, were guilty of the conversion of a cheque in England, and therefore the case was governed by English law; that the person who obtained payment of the cheque was not a "customer" of the defendants, within the meaning of the Bills of Exchange Act, 1882, s. 82, and that the defendants, having paid the cheque on a forged indorsement were not protected by any of the provisions of that Act, but were liable for the value of the cheque.

In *Gordon v. London City & Midland Bank*, <sup>(15)</sup> the plaintiff, who carried on business under the style of *Gordon & Munro*, had a confidential clerk named Jones in his employ.

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(13) *Kleinwort v. Comptoir Nationale Nationale*, 10 R. 259; (1894) 2 Q.B. 157.

(14) *Lacave & Co. v. Credit Lyonnais* (1897) 12 Q.B. 148.

(15) *Gordon v. London City & Midland Bank* (1901) *Weekly Notes* 247.

Jones, who carried on a small business on his own account, had accounts with the defendant banks. During the years 1895 to 1899 he had on various occasions stolen cheques sent by post to the plaintiff, which were drawn on banks other than the defendants' banks, payable to the order of the plaintiff's firm and crossed. He forged the indorsement of the plaintiff's firm upon the cheques and paid them in to his own account at one or other of the two defendant banks, which subsequently received the amounts of the cheques from the banks on which they were drawn. In most instances Jones also indorsed his own name on the cheques so paid in. The defendant banks credited Jones with the amounts of the cheques as soon as paid in, and he was allowed to draw against them. In an action for a wrongful conversion by the defendants of certain cheques belonging to the plaintiff, the Court of Appeal held that the defendants, not having received the cheques merely as agents of a customer for collection, were not protected by s. 82 of the Bills of Exchange Act, 1882, and were consequently liable to the plaintiff for the amount of the cheques.

From the foregoing it will be seen (*a*) that, as the banker is bound to know the drawer's signature, a payment to one who claims through a forged signature or indorsement cannot be charged to the drawer; (*b*) that the banker paying on a forged endorsement is responsible to the rightful owner for money paid on such forged indorsement; (*c*) that the banker cannot recover the money paid in good faith under a forged indorsement and received by the holder in good faith, unless notice of the forgery is given on the day the bill becomes due. But where there is no negligence on the bankers' part to induce the holder to treat the cheque as good and there are no indorsers to whom notice of dishonor has to be given, and the holder has not been prejudiced by want of notice, the banker is entitled to recover; (*d*) that the banker cannot charge the drawer for anything beyond the amount for which a cheque which has been fraudulently altered was originally drawn.

The subject of forged transfers being so closely allied to that of forged cheques and forged indorsements, it may not be out of place to briefly allude to the law governing such instruments.

A forged transfer is no transfer, and is simply a void document, in no way affecting the title of the person whose name is forged, and if the officer of a bank, acting upon the faith of a forged transfer or power of attorney, wrongfully but innocently transfers the shares of one of its shareholders, the bank is liable to make good the loss, and an action will lie against it to compel it to replace the shares and to pay to the shareholder the dividends declared since the transfer. It has been held that a company is liable to an action for damages at the instance of a person who has bought shares or advanced money on the faith of a certificate of title issued by a company, and who has been damnified thereby, although the company may have been induced to issue the certificate by fraud or forgery. <sup>(16)</sup> The power conferred upon corporations of granting certificates is to give the shareholders the opportunity of more easily dealing with their shares in the market, and to afford facilities to them of selling their shares by at once showing a marketable title, and the effect of this facility is to make the shares of greater value. The power to give certificates is for the benefit of the company in general, and it is a declaration by the company to all the world that the person in whose name the certificate is made out, and to whom it is given, is a shareholder in the company, and it is given by the company with the intention that it shall be so used by the person to whom it is given and acted upon in the sale and transfer of shares. <sup>(17)</sup>

But the fact that a company has registered a forged transfer or issued a certificate which is untrue, will not render the company liable in damages to the person wrongfully registered as a shareholder, or to whom the certificate was issued, unless he has acted on the faith of the validity of the registration, or of the truth of the certificate, and has thereby suffered damage. <sup>(18)</sup>

Where a certificate of shares in the usual and authorized form and sealed with the company's seal, but the signature of the director appended thereto was a forgery and the seal of the com-

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(16) *Simm v. Anglo-American Tel. Co.*, L.R. 5 Q.B., 188.

(17) *In re Bahia & San Francisco Ry.*, L.R. 3 Q.B., 594.

(18) *Simm v. Anglo-American Tel. Co.*, L.R. 5 Q.B., 188.

pany was, in fact, affixed thereto without the authority of the directors, was issued to G., who had no knowledge or reason to suspect that the certificate was otherwise than a genuine document or that the matters stated therein were untrue, the company having refused to register the plaintiff, to whom these shares had been transferred by G., as owner of the shares, stating that there were no such shares standing in G.'s name in their books, it was held that the company were estopped by the certificate issued by their secretary from disputing the plaintiff's title to the shares. <sup>(19)</sup>

In *Bishop v. Balkis Consolidated Co.*, <sup>(20)</sup> P., a shareholder in the defendants' company, transferred his shares to a purchaser, and his share certificate was lodged with the company to enable such purchaser to complete his title. P. subsequently purported to transfer a portion of the shares to another purchaser, who again sold, and executed a transfer of the shares to the plaintiff. Such last-mentioned transfer was "certificated" by the defendants' secretary, in the manner usual upon the transfer of shares, by placing upon it the words "certificate lodged," although no certificate was in fact lodged in respect of such transfer; and upon the faith of such "certification," the plaintiff paid the price of the shares. The defendants subsequently refusing to recognise the plaintiff as the owner of the shares, he brought an action to recover their value from the defendants. The court decided that such a "certification" could only be taken to amount to a representation by the defendants that a document or documents had been lodged with them apparently in order, and shewing *prima facie* that the transferor was entitled to the shares, *i. e.*, either what purported to be a certificate that he was the registered owner of the shares, or what purported to be a certificate that some one else was such owner, accompanied by a document or documents purporting to transfer the shares from such person to the transferor; but that such "certification" did not import a warranty of the transferor's title or of the validity of such document or documents that it did not therefore estop the defendants from

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(19) *Shaw v. Port Phillip Gold Mining Co.*, L.R. 13 Q.B.D., 103.

(20) *Bishop v. Balkis Consolidated Co.*, L.R. 25 Q.B.D., 77.

impugning the plaintiff's title on the ground of the invalidity of the transfer to the plaintiff's transferor; that the plaintiff could not therefore make a title to the shares against the defendants by estoppel; and that, as no action would lie against the defendants for a careless misrepresentation without fraud, the plaintiff could not recover. <sup>(21)</sup>

In the *Charnwood Forest Ry. Co's. Case*, <sup>(22)</sup> it was decided that a principal is not liable in an action of deceit for the unauthorized and fraudulent act of a servant or agent committed, not for the general or special benefit of the principal but for the servant's or agent's private ends. The secretary of a company answered questions which were put to him as secretary as to the validity of certain debenture stock of the company. The answers were untrue and were fraudulently made by the secretary for his own benefit. In an action against the company for a loss arising from the representations, the jury found that the secretary was held out by the company as a person to answer such enquiries on their behalf, but upon appeal it was held that the company was not liable.

A share certificate, issued by a company under their corporate seal, stating that the person named in it is the owner of a specified number of shares in the company, estops the company from afterwards denying his title to the shares; and, if the company are unable to give him the shares, they are liable in damages by reason of their statement. This decision was affirmed in the House of Lords. <sup>(23)</sup>

The duty of examining and checking share certificates issued by a company may as a rule be properly left to the secretary. In that case a director is not estopped from denying the accuracy of the certificate passed at a board meeting at which he was present. A certificate, though inaccurate, estops the company from denying its accuracy against any person relying on it, including (unless it is based on a forged transfer lodged by him) the person to whom it is issued, and that person, if put to rest by the certificate, so as to lose his remedy

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(21) L.R. 25 Q.B., 512.

(22) L.R. 18 Q.B.D., 714.

(23) *Tomkinson v. Balkis Consolidated Co.*, L.R. 2 Q.B.D., 614 and (1893) A.C. 396.

against his broker or transferor, is entitled to damages against the company. (24)

The latest case is that of *Sheffield Corporation v. Barclay & Co.* (25) decided in the King's Bench Division in 1902, by Lord Alverstone, C. J., in which the opinion of Lindley, J., in *Simm v. Anglo American Telegraph Co.* was not followed, and it was held that a person who tenders for registration a transfer deed of stock of a corporation impliedly promises to indemnify the corporation in respect of liabilities arising in consequence of registering him.

The question as to whether the shareholder, who has been guilty of some carelessness which has facilitated the improper dealing with his shares, is estopped from claiming his shares, has frequently arisen, and it has been decided that the shareholder who had signed transfers in blank, and entrusted them with his share certificates to a broker or banker, does not without more carelessness estop the transferor from claiming his shares as against a purchaser who knew that the transfer was in blank. And even carelessness in leaving share certificates or transfers about, although it facilitates fraud and even forgery, does not cause it, and does not of itself estop the owner of the shares from recovering them. There is no doubt, however, that carelessness may estop one person from denying his title as against another, but it is necessary that the carelessness shall be in the transaction in which that other has been engaged, and shall be the proximate cause of his being misled, and must be the neglect of some duty owing to him or to the public, of whom he is one. But the neglect of what is prudent, having regard to one's own interests, or neglect of duty to third persons, but through whom the person relying on the estoppel does not claim, is not sufficient for the purpose.

It will be seen that the tendency of the Courts is to hold the banker strictly responsible for any loss caused to his customers and to innocent parties. It is, therefore, necessary for the banker to be doubly cautious in dealing with instruments such as bills and cheques and transfers of shares.

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(24) *Dixon v. Kennaway & Co.* (1900) 1 Ch. 833.

(25) 72 L.J. K.B. 8.

## QUESTIONS ON POINTS OF PRACTICAL INTEREST.

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**R**EPLIES may be obtained through this column to enquiries of Associates or subscribers from time to time on matters of law and banking practice, under the advice of counsel where the law is not clearly established.

In order to make this service of additional value the reply will be sent, when possible, direct by letter where an opinion is desired promptly, in which case stamp should be enclosed.

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The questions received since the last issue of the *JOURNAL* are appended, together with the answers.

### *Cheque Payable to Bearer.*

**QUESTION 535.**—Can the holder of a bill or cheque payable to bearer endorse it “Payable to the order of A”? In other words a bill or cheque being originally payable to bearer, can any holder or endorser make it payable specially or restrictively?

**ANSWER.**—Refer to answer to question No. 174, page 69, Vol. 6, viz: Under subsection 3 of sec. 8, Bills of Exchange Act, it is declared that “a bill is payable to bearer which is expressed to be so payable.” This seems to preclude the possibility of such a bill being made payable otherwise than to bearer, and when a cheque is so drawn the drawer’s instructions are not affected by an endorsement, and the bank is protected in paying it to bearer, in accordance with its terms.

If the holder of such a cheque desires to protect himself from loss, he can do so by crossing the cheque generally or specially as he may desire.



*Wording of Sight Drafts.*

QUESTION 536.—A sight draft is made by “A” upon “B,” drawn out payable *to the order of* . . . . . Bank, and cashed upon the security of the endorsement of “C.” Is there any question regarding the wording of the draft adversely affecting such security, and, if so, upon what grounds?

ANSWER.—We consider the endorser is a guarantor of payment, and that in case of dishonour he could be effectively sued.

*“Not Sufficient Funds.”*

QUESTION 537.—A has a cheque of \$80, signed by B, on our savings department, but B has only \$40 to his credit; is the bank justified to pay to A the balance remaining to B’s account without any notice? What would you think of a debit slip on B’s account to withdraw the balance remaining to his credit, and apply that amount as a partial payment on the back of the cheque?

ANSWER.—The bank should refuse payment.—“Not sufficient funds.”

*Advice of Draft—Responsibility for Delay.*

QUESTION 538.—The B of H draws a draft on the B of T “with advice, pay to the order of John Jones the sum of \$. . . . . and charge to our account.” When the draft is presented the bank say they have not received an advice. How long must the customer keep it before he can enforce payment? Of course this does not apply to our drafts, but, as a matter of curiosity, we would like to know the law on this subject. Has there been any case decided under English law in this matter?

ANSWER.—If drawees refuse to pay on account of want of advice, holder has no recourse against drawee, but has immediate recourse against drawers.

*Proper Application of Collateral.*

QUESTION 539.—A's note for \$200.00, endorsed by B is discounted by a bank, and, upon dishonour, is paid by B the endorser. Before maturity of the note, A gives the bank a mortgage to secure this note, and another note of A's for \$200.00, held by the bank. After B pays the note endorsed by him, the bank foreclose their mortgage security and realize \$200.00.

Is the bank entitled to apply the whole of the \$200.00, proceeds of the sale of the mortgage security in payment of the \$200.00 note of A's dishonoured, but still held by the bank and unpaid, or is B entitled to receive one-half of the proceeds as being a surety who has paid half of the debt for which the mortgage was given by A?

ANSWER.—If the mortgage is given as general security to the bank, B would have no claim on the realization. If given specifically as security for both notes, the realization would require to be divided *pro rata*.

*Referred to Elsewhere.*

QUESTION 540.—A paper dated at St. John, signed by a person residing at a distance, and made in the form of a cheque, but having the name of the bank, upon which it is drawn, erased, is received by a bank from an outside correspondent.

- (a) What is the legal nature of such a paper?
- (b) To whom and where must it be presented?
- (c) Is it protestable?
- (d) Does it amount to anything more than an I.O.U.?

ANSWER.—From a banker's standpoint it is a non-negotiable instrument, and should be treated accordingly.

*Statute of Limitations.*

QUESTION 541.—A note was due February 10th, 1897. Will the statute of limitations protect you if action is taken

February 11th, 1903, or must it be entered in Court on or before February 10th, 1903?

ANSWER.—The authorities are conflicting as to whether or not an action could have been commenced on the 10th of February, 1897. It is plain, however, that the cause of action was at all events complete on the 11th February, 1897, and that from this day the statute of limitations would run. As there cannot be two elevenths of February in one year, the full six years would expire on the 10th February. Therefore an action begun on the 11th February, 1903 would be too late.

*What Constitutes Partnership.*

QUESTION 542.—Should a private banking firm, whose business is confined strictly to private banking, register a certificate of the co-partnership, under Cap. 152, R. S. O.?

The answer to this question depends upon whether a private banking firm is “a partnership for trading purposes” within the meaning of the Statute. The Statute is a remedial one, and both by the rules of construction adopted by the Court and by the express provisions of the Interpretation Act, it should receive “such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Act.” The object of the Act is, of course, to inform persons dealing with partnerships of the names of the partners, and the changes in or dissolution of the firm. It is confined to “partnerships for trading, manufacturing or mining purposes.” There are doubtless good reasons why it did not include partnerships of every kind, and no doubt in ascertaining what is a partnership for the purposes mentioned in the Act, the fair, large and liberal construction and interpretation referred to must be applied.

In an English case in which the question of what was an occupation of a house for the purpose of trading came up, the Court used these words:—

“Undoubtedly, if we are to take the terms ‘for the purposes of trade’ as relating only to the business of buying and selling, no one can say that there is any buying or selling in

carrying on the business of a telegraph company. It was never the intention of the legislature so to limit the meaning of the word 'trade.' It is not only the literal meaning of the word which is to be regarded. In literature of all descriptions, both in prose and verse we find that the word 'trade' is often used in a much more extensive signification than to indicate merely the operations or occupation of buying and selling."

In illustrating their meaning the Court further adds, "A banker's is a shop. . . . and there again there is nothing like buying and selling as generally understood, but it is a trade or business of a description quite *sui generis*."

In this case the Court held that the business of a telegraph company was "for the purposes of trade," within the meaning of the Act and we think that the Court here would hold that a private banking partnership is a partnership for trading purposes within the meaning of our Act, and therefore the firm should register the partnership declaration required by the Act.

### *Goods Hypothecated to Bank.*

QUESTION 543.—A sells to B and C certain goods, receiving a deposit thereon. B and C apply to their bankers for a loan to make a further payment, offering to hypothecate to the bank said goods, as security. The bank, being given to understand that the purchase was complete, takes the hypothecation from B and C in the presence of A, the banker explaining to A the nature of the security he was taking. A making no objection. The following day A gives B and C a bill of sale, and B and C give (innocently, so far as intention to defraud the bank is concerned), a chattel mortgage on the goods to A. Would A, under the circumstances, be stopped from proceeding under his lien ahead of the bank's hypothecation?

*Suggested Answer.*—Presuming the goods were and could be legally hypothecated under Section 74 of the Bank Act—A as an unpaid vendor might have protected himself by disclosing the fact to the bank. The claim of the bank under hypothecation would be prior to the chattel mortgage.

*Payment of Forged Cheque to Innocent Holder.*

QUESTION 544.—A customer of a bank deposits an unmarked cheque drawn on another bank for credit of his account. This cheque is sent into the bank it is drawn on, through the Clearing House (unmarked) and is then accepted and paid. A month later, the paying bank discovers the cheque was forged, and calls on the bank, from whom they received it, to refund them the money. As acceptors, are they not precluded from denying the genuineness of the cheque?

ANSWER.—The law is quite clear that a bank is bound to know the signature of its own customer, and that it pays a forged cheque at its own peril. In the case stated, the bank would have no recourse whatever against the innocent party to whom it paid the money. The position of the bank is analogous to that of the acceptor of a bill, who, by Section 54 of the Bills of Exchange Act, is precluded from denying the genuineness of the drawer's signature.

*Wife's Control of Her Separate Estate.*

QUESTION 545.—A bank holds a bond securing a standing overdraft up to a certain limit. Bondman dies, and it is suggested that the customer gives a demand note in favour of his wife as collateral security to cover any overdraft present and future, and his wife to hand bank a mortgage on her property favour of bank as security for her endorsement. Would this hold? Would it help matters if note were made by wife in favour of husband, and a mortgage given by wife to husband, and signed by him to bank to secure note?

ANSWER.—Under the law in force in Ontario, a wife is enabled to enter into contracts which will bind her separate estate, and there is nothing to prevent her from endorsing her husband's note and making herself liable upon the contract of endorsement with respect to her separate estate, nor is there anything to prevent her from mortgaging her property to secure her endorsement. Therefore, if the formalities with

respect to the making of the mortgage be properly observed, it could be made to the bank, and would form a security to the bank. Of course, the mortgage could only be taken to secure the amount of the existing indebtedness. It could not be held for future advances.

*Treatment of Cheques when Payment of Same has been Stopped.*

QUESTION 546.—John Johnson gives his cheque to James Peterson, and subsequently instructs his bank to stop payment. Cheque is presented by mail by a second endorser, Peter Smith. The bank writes, "Payment stopped" on face of cheque in red ink. Since cheque was the property of Peter Smith, was the bank justified in mutilating it?

ANSWER.—It would have been more discreet for the bank to have pencilled the reason for refusal on the back of the cheque as usual. Nevertheless, the holder's rights are in no way prejudiced by the so-called mutilation.

The difficulty would not have arisen had the cheque been protested.

*"Index Number."—Meaning of Same.*

QUESTION 547.—Please explain the meaning of the "Index" number, to which allusions are frequently made in financial papers. It apparently refers to the price of commodities.

ANSWER.—It is made up by adding the prices of certain quantities of the principal staple commodities, and is used for the purpose of comparing the variation of values from time to time.

*Receipts of Railways—Their Value.*

QUESTION 548.—City miller bought wheat from Village grain merchant F.O.B. at Village. B/L and draft attached sent to city bank. Buyer states wheat unloaded 50 bushels short. Where, under these circumstances is quantity to be

ascertained, at Village or City? What effect does the attaching B/L to draft and sending to bank have on the proposition, freight and bank commission being paid by buyer?

ANSWER.—If the shipper proves that he delivered the full quantity to the railway company, his responsibility ceases. The receipt of the railway company would not bind provided they proved that they delivered all they received.

*Section 74 Again—Goods in Warehouse, Etc.*

QUESTION 549.—A firm of commission merchants have as part of their business a large warehouse, part of which they use as a bonded warehouse. They sell on commission as agents for various manufacturers and producers in the United States and in Europe, meats, salts, agricultural implements, sugar and various other lines of merchandise. Their capital is largely invested in their warehouse, and they are therefore sometimes obliged to borrow to settle customs duties on goods ordered for local clients, or to enable them to carry consignments. They wish to protect the bank making the advances and purpose doing it by assigning to the bank certain goods, their own property, purchased on their own account and sold by them from time to time to the trade. In what form can the proposed assignment be made, and in what shape can the bank legally accept it? Can the firm give a security receipt, seeing the goods assigned are in their own warehouse?

ANSWER.—Such security would have to be taken under section 74 of the Bank Act, and we do not think any of the above commodities come under its provisions.

*Note Payable with Bank Interest.*

QUESTION 550.—Please inform me if a note drawn payable with *bank interest* is strictly correct. Would you consider the fact of its being drawn with bank interest as throwing any doubt as to the sum payable and would you consider such a note as coming strictly within the interpretation of the Bills of Exchange Act?

ANSWER.—While more desirable to have the rate of interest mentioned, I think the words “Bank interest” will not destroy the negotiability of the note. It is no more indefinite than the terms “with exchange” or “with costs of collection.”

*Wife's Endorsement Invalid in Quebec.*

QUESTION 551.—A married woman holding property in her own right endorses a note as an accommodation endorser. Could a bank, having discounted same for the promissor, collect from her? Would it be necessary for her husband to consent to her doing business in her own name, or would his signature be necessary on the note along with hers?

ANSWER.—In the Province of Quebec, under the circumstances stated, the woman's endorsement would simply be invalid,—a wise and vital remnant of French law that provides for the protection of women.

This question comes from Nova Scotia. In a later number the law of that province will be given.

*Deposits from Minors.*

QUESTION 552.—Referring to your answer to question No. 525 in the last number of the JOURNAL, you give the impression that there is a limit to the amount which may be received on deposits from minors as applying to Quebec Province only. I have been informed that the amount is limited to \$500.00 all over the Dominion. If I am wrong, kindly advise me.

ANSWER.—Section 84 of the Bank Act permits the amount of \$500 to be held on deposit at any time from minors and others legally debarred from making contracts, when such deposits are not permitted by the law of the Province in which the deposit is made.

If the Provincial law does not restrict such transactions, the Bank Act does not.



*It Depends upon Circumstances.*

QUESTION 553.—When a party's whereabouts cannot be ascertained, and a note against him is entered in court to prevent it from becoming outlawed, what is the limit of time allowed before any further steps must be taken, and, if there is a limit to time, what must be the next proceedings?

ANSWER.—The answer to this question depends entirely upon the practice of the particular court in which the action is entered. It would serve no useful purpose to discuss mere questions of procedure in Court, as there is no principle involved, and the rules of the Court may at any time be altered by the judges. We therefore give no answer to this question.

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## THE LATE MR. DAVID H. DUNCAN.

Mr. David Hunter Duncan, formerly general-manager of the Royal Bank of Canada, died at Halifax, N.S., on the 1st inst.

Mr. Duncan was born in Brechin, Scotland, in 1843, and received his early training in the Bank of British North America. In 1873 he joined the Royal Bank of Canada (then the Merchant's Bank of Halifax) as accountant. In 1882 he became the chief executive officer of that institution, and occupied the position until his superannuation a few years ago.

Upon his retirement from active banking, Mr. Duncan returned to Scotland, but later decided to spend the balance of his life in Nova Scotia.

Faithful, upright, and hospitable in the extreme, the deceased gentleman earned the esteem of all his friends, by whom the news of his death was received with great regret.

Mr. Duncan was at one time a vice-president of the Canadian Bankers' Association.

## CORRESPONDENCE.

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*To the Editor:*

DEAR SIR.—Can you inform me as to the origin of the Saturday early closing movement among the banks, and the reason for changing the banking hours on that day.

Halifax, N.S.

TELLER.

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A Montreal bank manager, in June of last year, suggested to the writer that the Saturday banking hours of Clearing House cities in the United States differed from those in Canada. With the consent of the Chairman of Committee of the Montreal Clearing House, the following circular was drafted and issued by its manager:—

The object of this circular is to direct your attention to the benefits which might be derived by bank officials if every Saturday afternoon could be made a genuine holiday. At present, although the hour of closing is one o'clock, the large majority of bank officials derive very little advantage therefrom.

Appended hereto, you will find a list giving the Saturday banking hours of the principal clearing-house cities in the United States. You will observe that, in the United States, it is recognized that to make half the day in question a holiday, a bank must close its doors at twelve o'clock. Kindly give to the suggestion, that the banks in Montreal shall be closed at the hour mentioned on Saturdays, your thoughtful consideration.

Please send to the manager of the Montreal Clearing House your opinion of the change, which is suggested solely as a means of affording the staff of every bank in Montreal a better opportunity of seeking health and recreation in the country during the summer months, and an afternoon all the year round for athletic sports and exercise.

The signal success of the appeal to the banks doing business in the city of Montreal, led to a corresponding movement in the same direction in other Canadian clearing house cities, and now nearly all the branches of banks in the Dominion close at twelve o'clock on Saturdays. The Montreal banks, to ensure the full benefit of the earlier closing to tellers, have recently decided to restrict the Saturday clearing to *cheques*. Notes are, by common consent, held until Monday.

EDITOR.

## CAPE BRETON LAKE SCENERY.

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### AN IDEAL HOLIDAY FOR TIRED BANKERS.

**A**BOUT this season of the year, the weary bank official, looking forward to his annual vacation, is frequently heard to lament his inability to select "a place to go to." To such an one, the writer has no hesitation in recommending Cape Breton. Perhaps there is no corner of the great Dominion of Canada which so abounds in beautiful scenery as the now much advertised Island of Cape Breton, and the visitor to the remoter and more retired districts thereof will return therefrom delighted with his discovery of a country well deserving of the attention that the development of its enormous mineral resources has recently attracted.

It is not to be supposed that all readers of the JOURNAL will, after perusal of this article, be seized with a longing to see Cape Breton from the cockpit of a canoe. Yet the publication of some extracts from the log-book of one who used a Rob Roy as a means of journeying through the lake scenery of this beautiful island may be the means of supplying holiday seekers with a place to go to.

Of course, by a person whose age extends beyond the period of youth or early manhood, the suggestion to follow the writer in a canoe through the lake scenery of Capes Breton may not be acted upon. There are gentlemen in the service of our banks who may not feel at home in a Rob Roy canoe, and who will regard the proposal of a voyage in one as a new and devilish scheme to get rid of them by their juniors in service.

However, if not willing or able to navigate the Bras d'Or Lakes in a canoe, the traveller can find safety and comfort on the steamers of the Bras d'Or Navigation Co., and to reach the point of embarkation from Montreal he cannot do better

than to travel by the Intercolonial Railway of Canada, which traverses between the Dominion metropolis and Sydney, a stretch of varied and attractive scenery, equal in beauty to the most famous tourist resorts of other countries. Comfortable cars, courteous officials, and excellent meals make a journey from Montreal to Cape Breton by the Government Railway highly attractive to health and pleasure seekers.

EDITOR.

EXTRACTS FROM A BANKER'S LOG.

(Rough and Unrevised.)

In August, 1885, I saw Cape Breton from the cockpit of the Nettie. The Nettie is a Rob Roy canoe fourteen feet in length, beam in proportion, fast under paddle, and as safe and seaworthy as a ship's lifeboat. Her crew on the voyage from Sydney, Cape Breton, to the Barra Straits, consisted of the writer, who is five feet eight inches long, beam in proportion, a veteran paddler, a lover of the sea and all connected with it.

The cruise of the Nettie may not have been sufficiently eventful to excuse her crew for publishing these notes from the little ship's log. But as she was the first craft of her class to weather Point Aconi; to brave the run from thence to Cape Dauphin; and to attempt the passage of the six knot tide that surges through the big Bras d'Or; enthusiastic members of the American Canoe Association looking for fresh waters and billows new into which to dip their double-bladed propellers may pardon me for publishing this my log.

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I was a voyager in the month mentioned from Port Mulgrave, N.S., to Sydney, C.B., by the steamer Marion, Captain Burchell. As we steamed through the then calm waters of the winding channels that open into St. Peter's Bay, I occupied, by special permission of the skipper, the lofty wheel-house, and from thence looked out upon the wood-fringed shores and the ever-changing lights and shadows of scenery about which a legion of tourists and an army of writers have raved. If these

travelling scribes have not seen the Bras d'Or Lakes and surroundings under such favorable conditions as I did from my quiet retreat in the Marion's wheel-house, with naught to disturb silent enjoyment of the scene save the skipper's voice, as he directed my attention to some small bay in the calm depths of which was reflected faithfully not only every object on its shores, but even the varying tints of the trees—it is not surprising that they have failed to convey to the senses any impression of the lakes as they are when the light summer air disturbs their surface at midday, and causes the tiny sun-kissed waves to splash against one's canoe in drowsy murmurings, or when the last faint puff of the evening breeze passes away and leaves the water so motionless that it seems like sacrilege to dip a paddle therein.

Before the Marion reached Sydney, the cruise of the Nettie was planned, and I had held as much talk with Captain Burchell upon the ways and means, as if the contemplated voyage was that of an ocean steamship freighted with the wealth of the Indies. Now read extracts from her log-book.

August 4th.—The Nettie is launched and provisioned, and with a kindly shout of caution and encouragement from her owner, I start before a fair southerly breeze for Sydney Bar, six miles distant.

A mile from North Sydney, a schooner-rigged boat, containing two officials of the Bank of Nova Scotia, sailed across the Nettie's bow and hailed her crew. I informed them of my destination and my intention to pass Sunday in North Sydney. They point out a landing place, and sail for the same to assist me in securing quarters. As I near the shore, I become sensible of much noise, and notice a crowd of people awaiting the Nettie's arrival. Fearful for the safety of the canoe if handled by excited sight-seers, I paddle vigorously to another point, but the more active of the natives run along the shore, and reaching the reef of rocks, my haven, await my approach. I am met with a storm of questions, and have to listen to the best efforts of the local humorists. The students of history among them call me Christopher Columbus; the more modern newspaper devourer is satisfied with saying: "It's Captain Webb from the Whirlpool Rapids."

Just as I am meditating flight from these good-natured savages, I am rescued by two good Samaritans, Messrs. Waters and Stavert, who deposit the Nettie in the bank of which they are officials, and escort me to the hotel.

August 6th.—At daybreak, I am assisted by my friend, Stavert, to launch the little ship. The sun is shining brightly, and the morning air is fast freshening into a strong breeze. Desirous of weathering Point Aconi before noon, about 5.30 a.m., I unwillingly part from Stavert, whose company would have trebled my enjoyment of the voyage, and paddle out into the harbour channel. Off Cranberry Head, there is a broken, confused sea, and the Nettie must be quite invisible from the shore, now two miles distant. Taking the Captain's mark—the white house at Mope Head—for a guide, I decide to paddle across the bay, known as Big Pond, from point to point. If any stout hearted navigator accustomed to walking the bridge of a thousand ton ship; if any hardy fisherman, used to holding the tiller of a strongly built, half-decked whaler, entertains any doubt as to the sea-going qualities of a Rob Roy canoe, I would that he had seen the Nettie as she rode like a cork over the big waves tossed up by wind against tide off the mouth of Sydney Harbor.

About 7.30, I sighted the steamer Marion rounding Cranberry Head, and turned the prow of the Nettie more seaward in order that Captain Burchell might be able to report me at Baddeck. Three whistles form the greeting from the Marion to her tiny sister. Cheered by the captain's careful lookout, I resolved to land for breakfast.

It is a pity that earlier navigators of the Canoe Club have not sought the Cape Breton waters, if only to accustom the hardy dwellers of that coast to the sight of a Rob Roy. Making for a cottage that gleams white and inviting from the distant shore, I perceive some two women and a swarm of children in a state of great excitement awaiting me. They surround the Nettie and praise her build and small dimensions, and regard me with such open-mouthed wonderment that I begin to think myself worthy of veneration, till the older woman (the other is a genuine "nut-brown mayde," with soft eyes, red lips, and

perfect teeth), murmurs: "Well, well; I thought it was the good man's boat drifting ashore with him clinging to it; ye must be daft to be going about in that." And then the hospitable woman bade her of the soft brown eyes and suggestive lips boil some water and prepare breakfast for the crew of the Nettie.

How the eyebrows of dwellers in distant cities will be elevated when I tell them that the tourist in Cape Breton, who forsakes the beaten path of travel, who tramps through the small settlements, or skirts the coast in a canoe, will find little use for money as an equivalent for the necessities of life. I have tasted tea guiltless of sugar, but sweetened with molasses and true Scottish kindness; I have made a hearty meal of everything that the pantry of a Cape Breton cottage could produce, and have slept soundly in beds clean and wholesome. I have been fairly smothered with kindness and hospitality all the way from Sydney to Barra, of which charming nook I carry recollections strong enough to make me sigh. And yet I found the currency of the country almost worthless as a means of showing gratitude, and discovered that a few words of kindly courtesy are, in Cape Breton, better than specie payment. I have heard people say unkind things of the Scotch, and abuse them for being clannish, and I have joined in the laughter created by some story of their proverbial thriftiness. But during the cruise of the Nettie I did penance—and am now vainly groping along the branches of the family tree to discover some sprig of Scottish ancestry.

Once more afloat, and paddling carefully in a short choppy sea for the mouth of the Little Bras d'Or. In the swirl of the strong tide, I ship a sea which even the rubber-apron hatch cannot altogether resist, and my provisions are badly damaged. Five minutes sponging frees the Nettie from water, and in another half hour the sun is over the fore-yard, and I find myself facing the heavy sea that washes through the split rocks of Point Aconi. For fifteen minutes there is a spice of danger in the Nettie's voyage, sufficient to keep the crew watchful of every wave, and with shortened paddle, she rides the water and runs through a gulch, which, in mid-

winter, must indeed be a terrible lee shore for a storm tossed ship. Safe under the grim cliffs that rise some seventy feet perpendicularly from the sea, I hear a faint shout above me, and, looking up, discover a face stretched out over the cliff. The owner points to a sheltered cove a short distance from my anchorage. Paddling thither, I find the brother of Archibald McLean has lowered himself by a rope to the shore, and is ready to welcome the crew of the only Rob Roy he has ever seen. Why do I mention Archibald McLean? Because he was the hero of the following story:—

On a wild winter's morning, years ago, the bringantine Alice, of Arichat, was cast ashore on the rocks at Point Aconi. All hope for the lives of the crew had been abandoned. The sea at last lifted the vessel, and it was dashed from the outer ledges close under the beetling cliffs, upon the top of which is the weather-beaten cottage of this Cape Breton hero. The captain and his men, worn out with hours of exposure, were clinging to the wreckage and expecting death, when help came as if from the clouds. Archibald McLean fastened a killick to the frozen ground above, and attaching a rope thereto, lowered himself to the wave-swept deck of the brig. Half a dozen times he braved the sea that threatened to dash him lifeless against the cliff, and on each descent he saved a half-frozen sailor from certain death, and with the help of the family on the rocks above, raised him to warmth and shelter in the humble cottage.

Hot tea and careful nursing finished the good work performed by McLean, and the captain and crew of the Alice lived to record in grateful language this story of the Cape Breton coast. Was McLean rewarded? Yes, in Sydney, before an audience of those who love to hear of gallant deeds, a gold watch, presented by the Government, was handed to this hero.

In McLean's cottage the crew of the Nettie dined, and over a pipe listened to this story, and as I read the inscription on the watch (McLean is now in the Far West) the wreck of the Alice passed before my eyes, and I strolled over again to the scene of this incident in the lives of those who go down



to the sea in ships. I tossed hay for an hour on McLean's farm, and then was lowered by a rope to the beach below, and paddling the Nettie with ease in the rolling sea that swept into the Big Bras d'Or, found myself, at five in the evening, off Table Rock.

Here disaster befell me. I was groping below among the ship's stores for a bottle of beer, and carelessly omitting to sling my paddle, lost it overboard. Before I could emerge from the close quarters into which my stores had shifted, the paddle was fifteen feet away. The captain of the Nettie is of a nervous disposition, but in the face of disaster and danger proved cool. Without the paddle, it seemed probable that the Nettie and crew would have to drift helplessly about and perchance be carried out to sea before the morning. The Table Rock was a mile away. I carefully undressed, and standing erect, jumped overboard, and although the Nettie rocked, her splendid bearings proved equal to the strain. I reached the paddle and swam to the canoe. If there are any canoeists, (none should cruise alone far from land) who have not practised getting into their frail barks from the water, let me give them a few rules for guidance. To attempt to board a Rob Roy from the side is folly. Like a log, she will roll over, and add to your exhaustion. Swim cautiously to the end, and raise yourself gradually until you succeed in straddling the craft. Then work your way slowly to the centre, place your hands on the deck behind you, and with careful balance raise both legs and shoot yourself into the cockpit. If you fail, try again. It is less exhausting than fruitless efforts to scramble in at the side.

I regained the Nettie in safety, and with considerable difficulty wriggled into my clothes. Tempted by the now calm evening and quiet sea, and attracted by the grand appearance of distant Cape Dauphin towering up against a sky glorious in beauty of color and rifted clouds tipped with tints of gold and purple, I resolved to add eight miles more to the day's run, and to seek a night's lodging at the base of the Cape. Half way across, I pause in my paddling to refill a treasured pipe. This is, indeed, solitude. Not a ripple disturbs the

stillness of the summer evening. Far abaft I can see the bold outline of Point Aconi, with the white cottage of Archibald McLean nestling among the shadows in the cliff crest. Miles away to the Southwest, I can trace my course for the morrow—the mouth of the Big Bras d'Or. Five miles ahead of me, towering upward ten hundred and twenty feet, rises Cape Dauphin; and away seaward I can define the sail of a schooner enjoying the last puffs of the summer wind that has left the Nettie and her hermit-like crew becalmed an hour ago. A commotion in the water a quarter of a mile off tells of porpoise, and not knowing what results a collision with one might have for a Rob Roy, I paddled on.

Voyagers to Cape Dauphin will find at the base thereof, the cottages of people hospitable and kind to an overwhelming degree. The Nettie was carefully beached, and I found comfortable quarters in the house of a Mr. Shaw.

Extract from the log of the R. R. canoe Nettie:—

Sailed from Sydney Bar, 5.30 a.m., Monday, 6th August.

Arrived at Cape Dauphin, 7.55 p.m., do.

Distance travelled, 23 miles. Spoken off Cranberry Head by the S.S. Marion. All well.

Tuesday, Aug. 7th, 6 a.m.—After a comfortable rest and hearty breakfast of fish and potatoes, I mustered the crew for deck swabbing, and the Nettie was thoroughly washed and re-provisioned with fresh milk and bread and butter before sailing. There is a brisk breeze blowing at 7 a.m., when I leave port. My hands are somewhat blistered by yesterday's exertions, and I paddle slowly, admiring the famous scenery of the now celebrated Bras d'Or.

About 10 o'clock, I see and feel the tide which in mid-stream of the fast narrowing lake, is rushing along in resistless fury, swirling and tossing the water in a way that suggests to the skipper of the Nettie the wisdom of continual watchfulness.

Duffus Point at last, and Fraser's Landing—to reach which I must now cross the tide against which the wind is striving to raise the troubled waters. Far distant, up the long

reach from Kelly's Cove, I can see the smoke of the returning Marion, and being anxious to exchange greetings with her skipper, I push my canoe tidewards.

For a few moments I feel the sensation of positive peril, and then I have to laugh as, in spite of powerful sweeps with my paddle, the Nettie spins round and round like a wash-tub in the swirl of the Bras d'Or tide, and makes one realize the strength of its 6 knot current. At last, clear of the rush of the tide, I reach the back eddy which makes canoeing on the Bras d'Or lakes so pleasant and easy, as, even against adverse tides, the voyager can propel his light craft with considerable speed.

The fishermen assembled in force at Fraser's Landing, and the remarks of the Bouladerie Islanders are those of men who cannot understand how canoeing can be regarded as a pleasant pastime.

When informed that the 14-foot cockleshell alongside the wharf has rounded Point Aconi, and is en route from Sydney to Barra, they suggest that I am more likely to reach another port (in a very warm latitude) not mentioned on the maps of Cape Breton. But when I offer to paddle the Nettie across the tide against any one of the boats moored along the shore, and to take the result as a test of the speed and seaworthiness of the Nettie, they laughingly decline the challenge.

Mr. Fraser kindly shows me through his fishing establishment, and explains the method of curing and drying fish. He also regales me with a tumbler full of the egg-nog made famous in the Bad Boy's Diary.

The Marion swings alongside the wharf. Her upper deck is crowded with tourists and commercial travellers enjoying the fresh mountain air, and viewing the rugged scenery. A pleasant smile and a few words about my course and the chart from the captain, and the Marion is off to sustain her growing reputation for regularity in time and passage.

Once again the Nettie is wrestling with the tide of the Bras d'Or, watched by a crowd of astonished fishermen from Fraser's Landing. The spray sweeps over her from stem to stern, but she rides the waves like a cork, until a false stroke

of the paddle submerges the low rail of her cockpit, and, half swamped, I drift into Kelly's Cove, and turning my ship bottom up, sun my jacket for a couple of hours whilst talking with the chief trader of that settlement upon a field of coal, which here, as all over the mineral-strewn island of Cape Breton, crops up telling of a mine which must some day prove a source of wealth to somebody.

The paddle through Seal Islands was pretty, but uneventful. As on the evening previous the breeze died away at sunset, and left the lake in a clock calm, with every rock, tree and shrub reflected on its glassy surface.

Landing opposite Man o' War Point, I sought a small white cottage situated on a clearing at the foot of the mountain. When chatting with the lord and master of this small estate, I noticed the guid wife, unasked, preparing tea. Fresh bread and clotted cream proved palatable to the tired crew of the Nettie, and after my meal I sat in the gloaming and talked with my host who, like many dwellers along the coast of Cape Breton, has relatives in the far west, and some manning the fishing fleet of Gloucester.

August 8th.—Speeding along on the back eddy of a strong tide, I kept close under the over-hanging cliffs of pure plaster, which literally forms the shore from Seal Island to Baddeck.

Four miles from Red Point I land for breakfast, and inspect the morning catch of fish just brought to shore by my entertainer.

The children are playing with the canoe, which is tossing idly on the sun-tinted waves at the end of a rudely-built wharf.

Surely the seekers after new grounds for camping and streams for canoeing must be brought to the Bras d'Or, if some more gifted writer than the captain of the Nettie will tell of its beauties.

This is the perfection of loafing. To lie idly in the sun with a panorama of exceeding loveliness stretched out before one, to hear the drowsy splash of the waves sounding like a lullaby; to think of nothing and to have nothing to think about; to let the steeds of the brain go browse at will; to lift the eyes from the fresh sparkling water, with its back-ground

of red cliff, topped and streaked with the white plaster, to the lovely unflecked blue of the sky; to watch through the smoke from my pipe the play of children who know nothing of the great world you live in and whose minds are as free and unfettered from daily care and business anxiety as their sturdy brown legs are guiltless of shoes and stockings.

These are sensations worth living for, and even if they do not last, he who would not swallow the opiate is too much of the earth earthy.

At last I am round Red Point, and the beauties of Baddeck, two miles distant, are spread out before me.

Scarcely am I out in the bay ere the punctual Marion is churning up the placid waters astern of me. Her skipper whistles thrice, and knowing the sea-riding qualities of my craft, scarcely veers from his course to pass me. Rising on the bow wave of the steamer as she towers up alongside, I gaze at the wheel-house, and exchange greetings with the skipper and some well-known friends leaning over the taffrail.

Dudley Warner will find few subjects more worthy of his pen than "Baddeck, and that sort of thing."

August 10th.—The last day of my cruise, and glorious weather. It is eleven miles by the chart to Barra, my destination. I had planned to cross St. Peter's Bay; to navigate the winding channels through Lennox Passage; to pass into the canal, and ask the keepers to swing the bridge and open the lock gates for the smallest sea-going craft ever entered on the canal register. But my vacation is over. So, Ho for the Grand Narrows! There is a long-rolling sea with no crest to the waves when I round the headland opposite Baddeck, and I am bent on a quick run.

It was 4.05 p.m., when I bade the Baddeckers farewell. Twice I pause to drink and smoke, and gaze at the ever-changing scenery. Can this be Christmas Island? Now the Nettie is crossing her final bit of tide-way. Five minutes later she shoots past the wharf at Barra, and I am welcomed by its postmaster, to whose never-to-be-forgotten relation I bear letters of introduction.

6.10 p.m.—Eleven miles in two hours and five minutes. A fast run for a Rob Roy canoe.

A pleasant finish to a pleasant cruise. I take tea with the Inspector of Lighthouses—poor Captain Brown—upon whom the shadow of a sailor's death was even then resting, and who perished in the breakers at the wreck of the ill-fated Government steamer, "Princess Louise," at the entrance to Digby Gut.

Barra, the beautiful! Seen in the moonlight from the hill-top on such a night as this, I can well believe in the earnestness of those who have raved of the beauties of the Bras d'Or lakes.

The next morning passes all too quickly. The Marion calls at noon, in response to my signal displayed from the head of Grand Narrows Wharf, and takes the Rob Roy and her crew back to headquarters.

Farewell, Barra. If the captain of the Nettie is able to wield a paddle in the golden summer time of future years, he will again wander over your picturesque beach, and revel in the fresh air which sweeps over thy waters and waves the grain and grass in meadow and pasture land.

How the steamer Marion bore the Nettie and crew to Port Mulgrave; how I regaled the steamer's captain with the story now told, and promised to some day publish this log of the voyage for the guidance of other canoeists; does not belong to this meagre account of a voyage, the recollections of which will grow more perfect in tint and outline when my canoeing days are over, and many features of which to faithfully portray would require the skilful hand of an artist, the warm feeling of a poet.

J. T. P. K.

# JOURNAL

## OF THE

# CANADIAN BANKERS'

# ASSOCIATION

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JULY—1903

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### EDITORIAL.

"Competition has never been so sharp, nor have the inducements offered ever approached those that are now being made by the newer credit institutions of the country.

Railroad corporations and other competitive concerns have in times past carried their efforts to such a point that unprofitable business was often secured at great initial expense. There is a question if uncontrolled competition does not always lead in the same direction?

The competition between the banks could never become so wild and perilous as that which once existed between the railroad companies, but there is a tendency at the present time to go to extremes. It is often called enterprise. The banker who is not willing to spend almost as much as the account is worth to secure it is dubbed an "old fogey."

A "Travelling Vice-president" for an Eastern bank stated recently that his only instructions were "to get deposits at a profit if possible, but to get them anyway." It is not likely that this rule has been adopted by many institutions. There are numerous outlets for banking enterprise without seeking to pad the deposit accounts of a bank at a loss to the stockholders."—*The Chicago Banker*.

It will be frankly admitted that a decided change has taken place in the methods of conducting banking business. Still, there is a period when things drift back to their old accustomed state, when the halting stage is reached. Then it is that prudent bankers begin to realize that the evils following in the wake of hustling for deposits outweigh the good which may temporarily accrue from wild and perilous competition for same. The

days of decorous and quiet banking may be passing away but we do not like to think that it is no longer necessary to discriminate between money and merchandise. It is not true that the difference consists only in the fact that the banker has money to sell, while the shopkeeper disposes of merchandise. We decline to subscribe to the belief that the banker of the period, who desires to obtain profits, should resort to the same methods as those employed by the seller of ribbons and laces, lollipops and butter. It is a safe deduction in financial philosophy that, if a bank exhibits such a keen desire to obtain possession of the money of other people as that displayed by the American financier whose utterances form the text for this article, the security it offers for the deposits sought should be closely scrutinized.

That the bank manager of the period should regard his predecessors of the sixties as slow and bound up in banking traditions of caution and conservatism, is not inconsistent with the sanguine temperament of the class of young men referred to in *The Chicago Banker*. But the manager of the period cannot surely complain if his extravagant inducements to the public, to deal with Short rather than with Codlin, are viewed with suspicion. He may perhaps be pardoned for thinking that his bank is the best depository for the savings of the working men. But, if the depositors think otherwise, assuredly, they may not be blamed.

The American humorist may have been justified in saying that the infantile mind can always be lured to ruin and financial disaster by the promise of the first fifty-cent piece found floating down the river on a grindstone, but at the same time it becomes a matter of the most serious nature if custody of the savings of a people is to be the reward for making of advertising a science, and of banking a farce.

Competition has never been so keen, nor have the inducements offered by our banks ever approached those at present held out to prospective customers. Some of the reflections which naturally suggest themselves to the mind, as we read and hear of reckless banking methods, are not pleasant, and, as we contemplate the peril which has to be faced by those who entrust their savings to men who have to "get deposits at a profit if possible, but to get them anyway," we think with regret and deserved admiration of the methods of the bankers of other days.



Satisfactory as the earnings of our chartered banks undoubtedly have been during the present period of prosperity, no sound reason can be advanced why some progress may not be made in the direction of improving the minor profits of Canadian banks. In this connection, a lesson could be learned by following the example of the banks belonging to the New York Clearing House. Realizing that the expenditure of time, money, and stationery, and the incidental loss of interest in handling, free of charge, what are known as out-of-town items, warranted some return, the members of the New York Clearing House resolved, by common consent, to frame a schedule of charges for the work performed by them for their customers. A system of fines, also agreed upon, makes any deviation from the ruling of the Clearing House in this particular so costly that even warm competition for business will not induce a bank to make these collections free of charge. As a step in the right direction, some Canadian bankers have been discussing the advisability of abolishing all the existing arrangements between banks by which they are compelled to handle certain items, without charging for service rendered to their correspondents. It is claimed that investigation into this matter shows that many thousands of dollars are annually lost to the banks as a result of the pernicious practice of working without reward. If some general agreement could be entered into embracing a minimum charge upon all returned items, accepted or unaccepted, and stipulating that all existing contracts between banks for free collecting be cancelled, the vexed question of the improvement of minor profits would disappear from the arena of discussion.

Trifling and unimportant as this matter now seems to the majority of our banks, it may happen that, in days to come, some such plan as that outlined will have to be adopted.

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While we are dealing with this subject of minor profits, it is perhaps well that we should call attention to the outbreak of a war between the New York banks and some of the powerful trust companies in that city. Consequent upon a demand that the latter should maintain a reserve fund called for by the New York Clearing House, many trust companies have withdrawn from the Asso-

**Minor  
Profits.**

**Bank  
versus Trust  
Company.**

ciation. These recalcitrants have declared war upon the banks, and are said to be soliciting desirable accounts by agreeing to collect out-of-town cheques and other items free of charge. However, the banks show no intention of deviating from their system of compulsory charges for work performed, and, in spite of severe provocation, they decline to yield.

An American financial journal states that some Philadelphia banks have succeeded in acquiring a number of desirable accounts from New York, and several trust companies in that city, having no clearing house connection, are reported to have secured accounts that were formerly held by banks. The outcome of this contest between the banks and the trust companies in the United States metropolis will be awaited with interest by all concerned.

That Canadian banks cannot overestimate the importance of safeguarding their minor profits, and seeing to it that clerical work, stationery, and stamps are paid for by customers, can best be illustrated by the instance given of a large dry-goods jobbing firm in Chicago, which claims to save by non-payment of cheque charges over ten thousand dollars annually.

It is satisfactory to note that the American trust companies now waging war upon the banks are likely to be compelled to maintain a reserve equal to that of the banks with whom they are so warmly competing for deposits and general banking business.

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The bankers of Canada, who are watching, with the interest they must naturally feel in such an important matter, the efforts of their Republican neighbours to introduce a better banking system, will be glad to learn that among the strongest opponents to the most recent suggestions in regard to the currency question in the United States is Mr. James B. Forgan, President of the First National Bank of Chicago, formerly inspector of the Bank of Nova Scotia. Mr. Forgan, and other bankers of Chicago, declining to take their ideas of currency reform from any newspaper, seem to have gained a decided victory in a recent controversy with a leading journal over the Aldrich Bill.

It is singular that the extremely practical bankers of the United States are apparently unable to present the nation with a plan for removing the admitted defects in the banking system of the United States. The majority of the writers on financial subjects in American papers advocate continued agitation and discussion as affording the best chance of arriving at some judicious action. But Mr. Forgan and other clever and well trained bankers are kept so busy combatting the numerous senseless suggestions in regard to bank currency reform that they cannot gain a hearing for their plans to improve a defective banking system. The manufacture of medicine for use in emergencies, rather than the discovery of a cure for the ills of the United States financial system, seems to be engaging the attention of the writers on banking subjects.

Among the many suggestions having for their object greater elasticity, and a larger supply of currency for daily use, is one providing for the incorporation of clearing houses by national law, and their authorization to issue notes as a "currency for temporary emergencies." The ingenuity of such a scheme of relief cannot conceal its make-shift weakness. It will recall to Canadian bankers the issue of clearing house certificates in 1893, with which our banking friends in New York and elsewhere proposed to settle their balances on both sides of the border.

Surely, the eminently practical bankers of the United States can unite for the purpose of framing some system of banking that will meet with the approval of the representatives of the people in Congress and Senate, even if the framers of the Aldrich and other bills are displeased. Possibly, if the writers and talkers on banking and political economy in the United States could be silenced, Messrs. Forgan, Gage, Eckels, Fowler and others could do something in the way of practical work.

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To those readers of the JOURNAL who intend to have bound the volume concluding with this present number, the editor tenders an apology for the very imperfect index of contents. Its faults are the more manifest by reason of the excellence of former volumes of the JOURNAL, in this as in other particulars.

**Explanatory  
and  
Apologetic.**

Post-prandial pleasantries, exchanged between guests at a dinner, will hardly be accepted by sensible people as affording sufficient reason for a display of resentful anger at the breakfast table on the following morning.

We decline to believe that Senator Chauncey Depew would maliciously say or do anything contrary to good manners when being entertained at dinner. Even dull, inactive listeners are

<b>Much ado</b>	said to find the wit of this breezy and talkative
<b>About</b>	American gentleman exhilarating, and, before we
<b>Nothing.</b>	condemn him, we want to hear more of the little

*contretemps* at the recent Pilgrims' dinner, of which a few particulars have flitted westward across the summer seas.

After dining as gentlemen should dine—wisely, but not too well—drinking “the usual loyal and patriotic toasts” in Scotch and Radnor, rather than in frothy goblets of soulless champagne, the Pilgrims would naturally expect to hear a very funny story, or some humorous remarks, from a *raconteur* of such repute as Senator Depew. Well, it seems he selected the supposititious affection felt by all good Americans for Great Britain as a subject to talk about. Incidentally, the representative of a former rebellious British colony made a pragmatic reference to Canada, and dubbed our country “the spoiled child of the Empire in the North.” Now we should be sorry to see Sir Gilbert Parker, whose supersensitive soul seems to have been shocked by American audacity, or any other good Canadian, sitting silent while the land of the maple leaf is subjected to slight or treated with contumely. At the same time we fail to find our temper rising over “the spoiled child” incident, and we cannot see that Senator Depew’s conduct was marked by circumstances of peculiar atrocity. He does not appear to have transgressed against modern usage by going to sleep in his chair, and slipping under the table, and, unless we hear more of what happened at the first Pilgrims’ dinner, it must be taken for granted that our eloquent neighbour’s only offence, in Sir Gilbert Parker’s opinion, was calling our country “a spoiled child.”

We do not regret that she is as she is. We are glad to think that both Great Britain and the United States are beginning to notice the growth of the lusty child in the North. Instead of uttering a reprobation of Senator Depew’s remarks, it would, perhaps, have been better had the ruffled Canadian novelist simply reminded his American friend of the bad conduct

of a certain rebellious daughter of the England of 1776, which has again and again since her defection provoked the "spoiled" but loyal child to shake his fist thereat. Then, having had a fair and honourable exchange of after-dinner pleasantries, the gentlemen who have created this unnecessary flutter could soothe their troubled stomachs with some "peat reek," and go amicably to bed.

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Owen Wister, or any writer of fiction, dealing with the lives of those who wander beyond the foothills of the Rocky mountains, and acquire personal knowledge of cow-punchers, gold-hunters and western desperadoes, might find the skeleton of material for a novel in the question submitted by an associate residing in the Yukon territory, and published herein. Perhaps, in looking over the story told of a murdered John Smith, who bought a bank draft in far away Dawson City, Associates not hitherto given to the reading, marking, and learning of the valuable pages of the Journal devoted to "Questions Upon Points of Practical Interest," may be attracted by other questions not possessed of the flavour of romance found in the Dawson City case.

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To the associate member who has objected to our playful reference to the difficulty encountered by the Journal Questions Committee in dealing with some of the interrogatories submitted to them, we now repeat, in all seriousness, that it is hard to determine, as stated in the April number, whether the writers of the perplexing questions complained of are unconscious humorists, or genuine seekers after knowledge handicapped by incoherency of statement.

This reprobation of those who send the Journal silly questions cannot offend the thoughtful majority of our readers.

The failure of a couple of loan companies in the Province of Ontario should lead our legislators to watch more carefully applications for charters by companies desiring to secure the banking privilege of taking deposits. The practice of purchasing deposits by banks, trust or loan companies is indefensible. The competition between the chartered banks is sufficiently keen without having it intensified by the presence in the field of loan companies, and patriotic societies empowered by law to become guardians of deposits and lenders of funds.

Fortunately, Canada is, as yet, fairly free from the condition of things set forth in the American Bankers' Monthly. But all the signs of the times point to a period coming when our banking methods may become lax by reason of unwise competition for high-priced deposits, and the investment of same in hazardous undertakings, rendered attractive by the high rates necessary to make the high-priced deposits profitable.

It is to be hoped that the following description of New York banking affairs, extracted from the Journal hereinbefore referred to, will never apply to Canada:—

"The purchase of deposits is universal by the trust companies, whose annual statements show payments of interest as high as five per cent. by some and payments as high as four per cent. by nearly all of them. But the abuse is not confined to trust companies alone, and a disgraceful competition has sprung up among certain banks, who send their drummers out into the country like so many "Samuel of Posens," with fiddle and bow, choice stories and a liberal expense allowance to beat up business.

An entirely false money market has been created in this country by the purchase of deposits by banks and trust companies. Resources are deflected from their natural sources by the payment of high interest rates. The banks and trust companies are becoming speculators in money, bidding against one another for its use."

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Thoughtless critics of the Canadian form of Government are wont to question the necessity for the existence of the Senate. But those who have had occasion to follow the course of the honorable gentlemen composing the excellent Senate Committee on Banking and Commerce, know that the country would suffer much by their removal from the post they occupy as the watch-dogs of legislation. Any Bill, private or otherwise, likely to prove inimical to the banking, commercial, or general welfare of the Dominion, even if its objectionable features have not been detected by

**A Valuable  
Committee.**

sleepy members of the House of Commons, seldom finds its way unchallenged through the Banking and Commerce committee-room of the Senate.

The gentlemen belonging to that honorable and useful body can be relied upon to study carefully every clause of any Bill to which exception has been lodged, and during each session many an Act of questionable utility and doubtful parentage has been reduced to harmless shape and innocent character by the judicious pruning of the wide-awake members of the Senate Committee on Banking and Commerce.

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An excellent paper by Mr. G. H. A. Montgomery, barrister-at-law, is published in this number of the Journal, and, as it sets forth very clearly for laymen the effect of any negligence in connection with the fraudulent alteration of negotiable documents, the article is strongly recommended for perusal by those engaged in the routine work of banks.

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**The Effect of  
Negligence.**

It seems a pity that so many public men are prone to express opinions upon questions of great importance without first making a study of the conditions of the country or the mechanism of the system which they condemn. **Speaking without Knowledge.** The Hon. Charles G. Dawes, Controller of the Currency of the United States, under President McKinley, when addressing the West Virginia Bankers' Association, at the recent session of that body, vigorously opposed branch banking.

Mr. Dawes is reported as declaring himself to be strongly antagonistic to branch banking, because he knew that it would close the small banks and "shut out the small borrower." If Mr. Dawes could be prevailed upon to visit some of the branches of Canadian chartered banks for the purpose of gaining knowledge of the system he condemns in such unmeasured terms, the managers of said branches would probably prove to the former Controller of United States Currency that their bill cases contain promissory notes for amounts small enough to sweep away such silly assertions as those now being made by Mr.

Dawes and other opponents of branch banking. Moreover, he would also find that a branch of one of our largest banks is frequently opened in a Canadian town where some local bank is established without causing any diminution in the business of the latter, and frequently operating to its advantage by assisting in fostering local enterprise. Even when the local bank is swallowed by some larger competitor for business, the "small borrower," whose fate is so bewailed by Mr. Dawes, does not suffer, as the trained branch manager of a Canadian bank is ever ready to extend consideration to the smallest of customers if the note he presents for discount bears the name of a good endorser. This proviso is necessary in Canada, as in the United States.

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We are indebted to Mr. George Johnson, the Dominion Statistician for a copy of the Year-Book, from which can be gathered figures of much interest to those who like to watch the signs of development of the Dominion. A table indicative of the continued confidence of many bank managers in the further expansion of the business of Canada, is the one published in this issue of the Journal, showing the number of branches of banks (by provinces) on 1st January last. The increase over the corresponding date of 1902 is 157, and the surprising struggle for new territory during the past five months justifies the expectation of a similar record for the present year. But the readiness with which some banks yield to petitions for branches in districts already occupied not only illustrates the keenness of the prevailing competition between our financial institutions, it also suggests the wisdom of having a redistribution of territory, and adopting a policy of mutual withdrawal from fields too well provided with banking accommodation. Perhaps a period of depression might make even this possible of accomplishment.

Another table telling a story of the progress and profit-making of the chartered banks is that shewing the amount of rest or reserve fund held by the banks since 1891. These funds, which may be regarded as so much additional capital, have increased nearly 122 per cent. since 1884.



Not satisfied with showing wonderful superiority in warfare to their kinsmen, the disciples of Confucius, the enterprising Japanese, are now reported to be using their influence in the direction of establishing a monetary standard for the Chinese Empire. Referring to the recent Mexican-Chinese proposal having for its object a fixed value for silver, the London *Economist* calls attention to an apparent obstacle in the path proposed:—the absence of any control of the currency by the Chinese Government. However, it has since been announced that an edict has been issued for the re-organization of the financial system of the Empire, and that a mint will be established in Peking for the purpose of supplying every province of the Flowery Land with a uniform coinage. The power to declare any form of currency a legal tender and to accept same is no longer exclusively an attribute of monarchs. China, under the tutelage of Japan, is evidently advancing in the right direction.

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The recently issued Statistical Year-Book also gives an interesting comparison of the bank clearings in a dozen large cities during the past five years, and, in order that our readers may be able to see where the metropolis of Canada stands among the cities of the American continent, we publish the table in this issue of the Journal.

The total transactions recorded by the Clearing-houses of Canada during 1902 were \$2,239,864,263. The proportion of each city to this total gives the following percentages:—

Montreal.. . . .	42.90	Vancouver.. . . .	2.13
Toronto.. . . .	31.85	Hamilton.. . . .	1.81
Winnipeg.. . . .	7.41	St. John, N. B... .	1.67
Ottawa.. . . .	3.84	Victoria.. . . .	1.13
Halifax.. . . .	3.48	London.. . . .	.99
Quebec.. . . .	2.83		

J. T. P. K.

## THE HISTORY OF CANADIAN CURRENCY BANKING AND EXCHANGE.

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### FREE BANKING AND CURRENCY AMENDMENTS.\*

THE crisis of 1848 in business and banking, with the consequent curtailing of discounts and general banking business, had led, as we have seen, to a criticism of the banks which was not altogether enlightened. Both banks and people had been partly responsible for the situation, though in part also it was due to international conditions over which they had little or no control. The banks, however, came in for the greater part of the blame and there followed a renewed interest in the project for a government bank of issue. At the same time attention had been directed to the system of free banking which, since the last crisis in 1837-8 had been developed in the adjoining State of New York, much to the betterment of conditions there.

As was natural, owing to the importance of its economic interests, New York State contributed several new features to American banking, the most important of which were afterwards embodied in the National Bank system, and some of which have been adopted in Canada. In 1849 the comptroller of the State of New York, in his annual report to the Legislature, gave an historic sketch of the two systems of banking then in operation. The older one, introduced in 1829, was known as the "safety fund system;" and the newer one, adopted in 1838 after the crisis of the preceding year, was designated "the free banking system." Under the former the banks were separately chartered, though in practically the same terms. Each

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\* Chief sources:—

Journals of the Legislative Assembly, and of the Legislative Council of the Province of Canada, 1850-53.

The Provincial Statutes of Canada, 1850-53.

*Hunt's Merchants' Magazine and Commercial Review*, 1849-50.

*The Globe*, Toronto, 1850-52.

*The Pilot*, Montreal, 1850-52.

bank was required to have all its capital paid in before beginning business. It was also required to pay into a common fund in the hands of the State Treasurer, an annual contribution of one-half of one per cent. on its capital until the deposit of each bank amounted to three per cent. on its capital. The fund so contributed was known officially as the bank fund, but popularly as the safety fund, whence the name of the system. Out of this fund was to be met immediately the obligations of any bank which might fail. A system of government investigation of the accounts of the banks was also instituted.

The fundamental feature of the free banking system was that any person or corporation might engage in the business of banking on depositing with the comptroller certain approved securities. At least one half of these were required to be stocks of the United States, or of some of the individual states, bearing an interest of five per cent. The remainder of the securities might consist of mortgages on improved, productive and unencumbered real estate worth double the amount of the mortgage, exclusive of buildings, and yielding an interest of six per cent. Such approved securities being deposited, the comptroller delivered to the individual or corporation making the deposit, an equal amount of bank notes for circulation. This system as established in 1838, was amended in several particulars. The stocks of some of the states becoming depreciated, the state securities to be deposited were limited to those of the national government and of the State of New York itself. To prevent the multiplication of small banks an amendment was made in 1844 requiring that individual bankers must deposit securities to the amount of \$50,000 at least, and corporations to the amount of \$100,000. In 1849 the total circulation of the state amounted to \$32,587,536, of which \$11,180,675 was contributed by the free banks.

Such was the system which commended itself to many people in Canada and among them the leading members of the Government, including Mr. Merritt and Mr. Hincks. The latter was particularly interested in the system from the double point of view of banking and finance. It promised, on the one hand, a uniform and safe means of extending the banking accommodation of the country and, on the other, by stimulating a demand for Government securities it would tend to raise them in value. This latter was a very essential point with Mr.

Hincks in his efforts to rehabilitate the financial credit of the Province. It was accordingly resolved to introduce the free banking system into Canada.

The Government intended to bring in their bill as a measure supplementary to the reconstruction of the provincial finances. But as their opponents seemed inclined to forestall them on the banking measure, it was decided to introduce it in the session of 1850. Accordingly, on June 26th, 1850, Mr. Merritt brought forward the Government measure to establish freedom of banking in Canada.

To clear the ground for the operation of the new system it was necessary to amend the existing laws for the regulation of private bankers. These were repealed, and new restrictions were provided in terms much the same as those of the present bank act, whereby all parties except the chartered banks are prohibited from issuing any instrument of credit in the shape of a bank note, or in any way intended to pass as money. The issue of bank notes below five shillings, or one dollar, was prohibited. Foreign bankers were debarred from keeping offices in Canada. The act set forth the nature and business of banking with all the necessary limitations. It will be lawful for individuals as well as corporations to engage in the business of banking. But joint stock companies undertaking banking must be composed of at least five persons, and their articles of agreement filed with certain public officials. These articles must show the name of the bank, its location, the amount of its capital, and the number of its shares. The capital was not to be less than £25,000, nor the shares under £10 each. The shareholders were to be subject to double liability as in the case of the chartered banks. The individual bankers, or joint stock companies undertaking banking were to deliver to the Receiver General Provincial Securities, or others whose principal and interest were guaranteed by the Government of the Province, to the amount of £25,000 bearing an interest of six per cent. The Receiver General will then issue to the banks or bankers, notes to the amount of the securities deposited. The plates for the printing of the notes were to be furnished at the expense of the banks but to be approved of and kept by the Receiver General. The notes being duly numbered, registered, and countersigned by the Receiver General, or an official duly appointed by him, and also signed by the proper officers of the bank, may be issued and circulate as bank notes, and so

long as they continue to be redeemed in specie on demand they will be received in payment of duties, or other sums due to the Provincial Government. But, should any of these notes fail to be redeemed in specie, they may be duly protested and the Receiver General notified, and any bank discontinuing payment for ten days may be closed. The Receiver General will then take steps to pay off the notes and other obligations of the bank from the proceeds of the securities deposited in addition to the other assets, the holders of the bank notes to be paid first. Provision is made for the voluntary closing of a bank, the calling in of its notes, and the return of the securities deposited. Every banker or banking corporation seeking to issue notes under this act, must keep a *bona fide* office of discount and deposit, but at one place only, and the total liabilities of the bank must never exceed three times the amount of its capital. :

Each bank established under the act was required to send in to the Inspector General a half yearly report, giving a statement of the affairs of the bank setting forth the following particulars:—

1. The amount of the stock invested and secured by the deposit of debentures.
2. The value of the real estate of the association and what proportion is occupied for their business.
3. The total shares of stock held, and the number and value held by each member.
4. The debts owing to the association or banker, and the particulars thereof.
5. Debts owing by the association or banker, and the particulars thereof.
6. The amount of claims against the association or banker and not acknowledged as debt.
7. The amount for which the association or banker is indirectly liable.
8. The amount of notes in circulation, of loans and discounts made, and the specie on hand.
10. The amount of the same on the first of July last preceding.
10. The amount of losses sustained, and whether charged to profit or capital, and the amount of the dividends declared and made. :

11. The amount of debentures deposited with the Receiver General.

The existing incorporated banks might avail themselves of the privileges of the act by depositing Provincial securities with the Receiver General and obtaining registered notes to the amount deposited.

Bank notes issued in accordance with this act were to be exempt from the duty levied upon the regular issues of the chartered banks.

The debates on the bill in both Houses, and the discussion of it in the newspapers, showed that the conditions influencing monetary matters were still very imperfectly understood in Canada. The writer of a series of letters in the *Montreal Gazette*, adversely criticising the measure, predicted that if this new system of banking were introduced it would force the chartered banks to give up the function of issuing notes and to fall back upon the exchange business alone. As a matter of fact, however, the chief trouble with the new system in competition with the old was that in point of profit it could not hold its ground. The capital stock of the free banks was limited in its investment to a special line of low interest bearing securities, while the chartered banks had a much wider field open to them. Again, the note issue of the free banks was strictly limited to the amount of the capital invested in the prescribed securities, while the chartered banks were allowed a much larger range in the issue of notes. Further, the free banks were expected to keep on hand the usual proportion of specie to meet their outstanding notes, for the securities held by the Government were available only if the banks should fail. And since, in common with other banks, they were not likely to have all their notes in circulation at once, though they were authorized to issue notes to the extent of their paid up capital they were not likely to enjoy an income from their note issue on more than from fifty to seventy-five per cent. of their invested capital. After deducting the expenses of management and incidental losses, it is obvious that there was not much profit to be derived from this form of banking, in comparison, at least, with the older system of chartered banks.

In a country like Britain, or even the older parts of the United States, where there was a considerable element in the population having capital drawing little or no interest, the opportunity for employing it under the free banking system

might be welcome. But Canada did not as yet contain much capital of this description, nor was it likely to attract such capital from abroad.

It might be said quite generally, that in times of depression and stringency the free banking system could hold its own with the chartered system, but in times of speculative inflation and high rates for money it would be at a decided disadvantage.

The chartered banks were permitted to enjoy a large fund for investment on a small basis of actual capital paid in, and so long as the business of the country was of a conservative character and the management of the banks fairly prudent, this was a system profitable alike for the bankers and the country, though subject to severe contraction in times of impaired credit. Yet, from its very cheapness and profit, it was a system which was sure to attract many aspirants for banking privileges. Already the influence in the Legislature of bank promoters seeking new charters, was difficult to resist. It was partly to escape from the rising tide of bank petitions that Mr. Hincks favoured the introduction of the system of free banking, which would meet these demands and at the same time prevent the natural consequences of an over issue of bank paper. If, in a country like Canada, the issue of paper money could be regulated, the discount and deposit business would quite take care of itself. However, the successors of Mr. Hinck's administration either did not realize the danger which threatened, or were unable to resist the demands for new charters. In consequence the free banking system dwindled after 1854, and the chartered system was recklessly extended, with consequences which have yet to be considered.

The most serious objection to the system of free banking in a country situated as Canada was at that time, was that it lacked elasticity in the supply of a circulating medium, and prevented its automatic adjustment to the needs of the country. At the same time it is well to remember that the needs of a country may at times be largely speculative. An elastic system of currency at once permits and encourages speculation, and, from the point of view of demand for money, speculation is as pressing as normal trade, and often more so. This the Canadian bankers themselves freely admitted, in confessing each others mistakes after the next crisis.

The act to establish freedom of banking when passed, as it was by large majorities in both chambers of the Legislature, was immediately assented to by the Governor. Lord Elgin, counseled by his ministers, evidently interpreted the acknowledged system of responsible government in Canada as no longer requiring him to reserve all money bills for the consideration of the Home Government as formerly required. Yet this, as we shall see, was a point on which the official dignitaries in the civil service in London found it impossible to keep pace with the advance in colonial autonomy.

The act, when transmitted to the Imperial authorities, was accompanied by a memorandum from Mr. Hincks, indicating the double purpose which this measure was intended to serve; namely to place the circulating medium on a sound basis, and to enhance the value of the government securities. He points out that under the system which had hitherto prevailed incorporated banks with limited liability furnished the circulating medium of the country. Though, owing to their limited number and prudent management, no failures have yet resulted, still there is a strong desire manifested to establish small banks of the same nature in the various towns of the Province, and there is reason to apprehend the evils which have resulted from such a system in several of the American States. It has therefore been deemed expedient to adopt some plan for insuring the safety of the paper currency of the country.

For his own part he favors the system of a single government bank of issue, like that of the Bank of England, but it would be impossible to have such a system accepted by the Legislature. He then refers to the New York system of free banking which has been very successful and is likely to be adopted by several other American states. It has the double virtue of affording ample protection to the note holder and of providing a domestic market for the public securities. This is the system which in all essential particulars is adopted in the free banking act just passed by the Canadian Legislature, and it is confidently expected to insure the objects sought.

This memorandum is important as clearly showing that Mr. Hincks still adhered to the principles which he had adopted from Lord Sydenham. The two cardinal features of Lord Sydenham's plan were, first, a uniform system of free banks regulated by a single public bank act, and, second, the incor-



poration with this system of the principle of a government issue of notes based upon specie and government securities. Though, as acknowledged in his memorandum, Mr. Hincks had come to recognize that the country would not at present accept a provincial bank of issue, yet he maintains the necessity of approximating to this plan as nearly as possible. Though absent from Canada for many years, yet on his return he managed in the end to accomplish both branches of his purpose.

In spite of Mr. Hinck's explanations the act did not commend itself to the Lords Commissioners of Her Majesty's Treasury. They seemed to be prejudiced against it from the very fact that its details were copied from an American model. Yet it was more akin to the British system than anything hitherto established here in Canada.

Ignoring all differences between the financial circumstances of Britain and Canada, the Treasury Board maintained that a more literal copy of the English bank act should have been adopted. Though admitting that the note holders would undoubtedly be better protected under the new system than under the old, yet they held that it should have definitely limited the amount of paper money which might be issued, and should have required a specific proportion of specie to be held in reserve. They refer to the commercial crisis of 1847 and the railroad mania of 1850 as examples of circumstances under which the values of even public securities like those of Britain were demoralized, and such securities are much better than those of Canada. Besides, though the free banking system may tend to support the values of government securities in periods of prosperity, in times of crisis and possible bankruptcy their values would be demoralized, especially if put to forced sale. They recommend therefore the maintenance of a considerable specie reserve, at least one-third, and the frequent publication of the assets and liabilities of the banks, say once a month. They criticize also the small amount of capital (£25,000) on which these banks may be established, and the five shilling note issue which is retained without even the limitations imposed on the chartered banks. Though disclaiming any desire to unduly interfere with the internal affairs of Canada, they would nevertheless point out that their larger experience in money matters is worth something, and especially since the Mother Country has guaranteed certain loans

for Canada, it is their duty to see that the credit of the country is not endangered.

Earl Grey, in transmitting these observations to the Canadian Government through Lord Elgin, added that he did not think the example of the United States in money matters a safe one to follow. At that time of varied American banking methods this was much the same as saying that the European example was not a safe one to follow. However, the Colonial Secretary withheld the act until he should receive an answer from the Canadian Government.

In their observations on the act the Lords of the Treasury evidently regarded the issue of bank notes in Canada in precisely the same light as their issue in Britain. Yet the circumstances were entirely different. In Britain there was a large and complex national and international financial business, with all kinds of speculative discounting of the future such as those cited, to be carried on upon the basis of the national currency and banking system. In Canada, however, the business of the banks was confined almost entirely to the ordinary functions of facilitating imports and exports of actual goods, and their production and exchange throughout the country. What the country most required, therefore, was a safe medium of exchange, with a reasonable amount of specie to insure the immediate convertibility of surplus notes, or such as might be returned from the adjoining districts of the United States. Now the free banking system, even from the point of view of the Lords of the Treasury, was much safer than the chartered bank system, and, as already noted, the crucial question was, could it manage to exist in competition with the other?

As was to be expected, the official criticisms of the act were not well received in Canada. The only suggestion which was felt to be at all to the point, was the minor one as to the publication of monthly returns from the banks operating under the act. In the following year the act was amended in this respect.

The only favor enjoyed by the free banks was the exemption of their notes from the bank circulation tax. Ever since its imposition the chartered banks had been making efforts to secure the repeal of the tax, but without avail. Now that the free banking act was passed, the agitation for the repeal of the note tax was renewed with vigor. The exemption of the issues

of the free banks was justified on the ground that they aided in supporting the values of the government securities. This feature was accordingly made use of by Mr. Hincks to induce the chartered banks to conform, in part at least, to the new system.

On July 30th, during the session of 1851, Mr. Hincks moved the House into committee to consider the expediency of relieving the chartered banks from the bank circulation tax, on certain conditions calculated to assimilate their basis of note issue to that of the free banking law, and to facilitate the sale of debentures to be issued by the Province. The expediency of the measure having been affirmed, Mr. Hincks brought in a bill to exempt the notes of the chartered banks from taxation on condition that within three years the banks wishing to take advantage of the act should restrict their ordinary circulation within the average of their note issue for the years 1849-50, and that any extra issues beyond that amount should be completely secured by specie or government securities held in reserve for that purpose. But such securities need not be deposited with the Receiver General, or the notes issued by him in return.

The principle was still further extended to the chartered banks by an act of the following session. This provided that the tax to be paid by any bank on its note circulation should be calculated only on the average amount of note issue which exceeded the average amount of specie and recognized debentures which the bank had on hand. These concessions tended of course to lessen the number of new banks seeking to come under the full limitations of the free banking system.

The first banks to avail themselves of the new system were the Bank of British North America and three new banks, all of which were incorporated by act of Parliament during the session of 1854-5, namely, the Molson's Bank, the Zimmerman Bank, and the Niagara District Bank. The last, as may be remembered, had previously obtained a charter but could not obtain the necessary capital to fulfil its conditions and its charter had therefore lapsed. The Bank of British North America under its royal charter was not permitted to issue notes of a smaller denomination than one pound currency, or four dollars. It therefore took advantage of the free banking act to obtain the lower denominations.

The securities deposited with the Receiver-General by these banks were all provincial debentures bearing interest at six per cent., and were therefore accepted at par. The amount of securities held and the notes issued by the three new banks required to give returns were as follows:—

Bank.	Securities Deposited.	Notes in Circulation.
Molson's... ..	£50,000	£37,861
Niagara District....	50,000	46,169
Zimmerman... ..	25,000	22,000

From these returns we observe that under the rising tide of prosperity and increasing demand for money, the banks were able to get a very large proportion of their notes into circulation.

In 1854 the Hincks-Morin Government went out of power, and under the administration which succeeded a different banking policy, or lack of policy, prevailed. A reaction against the free banking system and in favour of a miscellaneous extension of individual chartered banks set in. The consequences which Mr. Hincks feared and predicted followed, but the details belong to a subsequent paper.

One of the currency reforms which Mr. Hincks had long had in mind was the official introduction of the decimal system of dollars and cents. But he found that much preliminary work had to be done, partly in unifying Canadian opinion on the subject, but mainly in convincing the Home Government that this was the inevitable future for Canadian currency.

While these questions were still under consideration, the United States Government gave notice that, after May 1st, 1850, certain Spanish and Mexican coins, such as quarter dollars, one-eighth dollars, or York shillings, and one-sixteenth dollars, or sixpences, should pass current only at a reduction of twenty per cent. on their face values. Thus the quarter dollar would pass for twenty cents, and the eighth and sixteenth in like proportion. Now as this would result in these coins having a higher value in Canada than in the United States, unless the Government took steps to protect the country it would probably be flooded with these coins. It might even be to the interest of the banks to import them in large quantities and issue them in payments up to the legal limit of ten dollars. The Government was urged on all sides to take up the matter and prevent the invasion of a depreciated coinage. It

responded to the call, and early in June, 1850, Mr. Hincks introduced a bill to reduce the values of the Spanish and Mexican coins in the same proportion as in the United States. The bill was strongly supported by Mr. Holmes of the Bank of Montreal, who stated that the coins in question were of ancient date and much worn. The country, he said, was in no special need of these coins as English silver supplied the place of small change. He also referred to the unfortunate experience with the French half crowns, and stated from personal knowledge that within fifteen days of the depreciation of the French half crowns in the United States £150,000 worth came into Canada and were the occasion of much trouble and loss.

As passed, the act contained but one clause, stating that the silver coins of Spain, the states of Central and South America, and Mexico, being of values less than half a dollar, should not be legal tender above the following rates: the quarter dollar to pass for one shilling currency, the one-eighth dollar at sixpence, and the one-sixteenth dollar at three pence. Otherwise their legal tender conditions should remain the same as in the currency act of 1841.

Another currency act was passed during the session of 1850, amending the act of 1841. As was pointed out when that act was under discussion, the rating of the silver coins as determined by the committee of the Assembly and embodied in their bill was altered in the Council. The rating of the dollar was changed from 5s. to 5s. 1d., and the British crown from 6s. to 6s. 1d., and in like proportion for the lower denominations of these coins. This rating had been very reluctantly accepted by the Assembly. The act of 1850 restored the rating of the dollar to 5s. and of the half dollar to 2s. 6d., these coins being unlimited legal tender.

The long felt need for a special provincial metallic currency, for purposes of domestic exchange, was also sought to be provided by this act. It gave authority to the Governor-in-Council to cause silver coins to be struck for circulation in the province. These coins were authorized to be for the following values: 5s., 2s. 6d., 1s. 3d., 1s., 6d., and 3d., cy. The intrinsic value of the coins was to bear the same proportion to their nominal value as in the case of the British silver coins, and they were to be legal tender to the extent of \$10.

The Government was also authorized to obtain a supply of gold coins of the values of £1 5s., or \$5, £1, or \$4, and the

halves of these. These gold coins were to be of the same standard in fineness as the British sovereign, and to be unlimited legal tender. The act was to come into force on January 1st, 1851.

Accompanying this act, when sent to the Imperial Government, was a report of a committee of the Executive Council, dated August 14th, 1850, and approved by the Governor-General-in-Council. This sets forth the reasons of the Canadian Government for the changes introduced in the act. They refer to a despatch from Sir Edmund Head, then Governor of New Brunswick, and agree with him as to the desirability of a uniform currency throughout British North America. The Canadian Government considers it desirable to increase the trade relations between the various colonies of B. N. A. and between them and the United States. To this end they consider it expedient to assimilate the currency of British North America to that of the United States. In the United States though there are legally two standards of value, gold and silver, yet, owing to a slight appreciation of the gold eagle, as compared with the silver dollar, the latter is at a slight premium and gold is virtually the actual standard of value. In the Canadian currency act of 1851 the British sovereign was rated at £1 4s. 4d., which is as nearly as possible its value as compared with the American half eagle. By the same act the silver dollar was fixed at 5s. 1d. cy., the object being to secure a silver standard in Canada which would be the exact equivalent of the gold standard. But the result has been to depreciate the Canadian paper currency as compared with that of the United States, and thus to prevent the circulation of Canadian bank notes at par along the American frontier. In order to equalize the Canadian and American standards, the Government introduced this currency act of 1850, which has passed the Legislature without opposition.

Attention is also drawn to the provisions in the act for obtaining a provincial metallic currency, and it is hoped that this may be coined at the British mint. Of the silver coins provided for in the act, they desire at present only those of the following nominal values: 3d., 6d., 1s., 2s. 6d., cy, or one-twentieth, one-tenth, one-fifth and one-half dollar respectively. Of the gold coins two would be sufficient at present, either five dollars and its half, or four dollars and its half, and of the same standard as the American half eagle. The Canadian

Government desires to enter into correspondence with the Governments of the other Provinces with a view to establishing a uniform currency for British North America.

When the act, accompanied by the report of the Executive Council, reached the Colonial Secretary it was, as usual, submitted to the Treasury Board. From their Lordships a reply was received to the effect that, while they seriously objected to the proposed amendment to the act of 1841, yet they decline to discuss that portion of the act since the clause which authorizes the Governor-General to cause certain coins to be struck for circulation in the Province, requires the immediate disallowance of the whole measure. This clause they say "involves an uncalled for and most objectionable interference with the prerogative of the Crown." They further request that Earl Grey should call the attention of the Governor-General to the impropriety of allowing an act of such a description to pass without suspending its operation until the pleasure of Her Majesty thereon should be known, which meant practically the pleasure of the Treasury Board. In such imperious fashion were the Governor-General and the Executive Council, constituting the Government of Canada, brought to task for their misdeeds under responsible government.

As might be expected, the Canadian Government was not disposed to humbly accept the rebuke of the British Treasury officials and the disallowance of their act. Mr. Hincks made his first reply to the Lords of the Treasury in substance as follows. He pointed out, in the first place, that the Canadian Government contemplated no interference with the Royal Prerogative, nor gave to the Governor-in-Council authority to obtain coins without the sanction of the Imperial Government, and through the medium of the Royal Mint. He refers to the fact that the want of a colonial coinage has been felt for many years. The country has to depend upon such foreign coins as it can procure, together with silver tokens from the British mint. As the Royal Prerogative has never been exercised to supply this want, the Canadian Parliament, with the greatest unanimity, took the initiative, subject to the sanction of the Home Government. But as a supply of a coinage was only part of the act, it would be most inexpedient to disallow the whole act on the grounds specified. Its disallowance will greatly embarrass the people of Canada, and produce widespread

discontent, emphasized by the altered constitutional position which Canada now enjoys.

As to their general objections to the act, he would point out that the bankers, merchants, and traders of Canada find no fault with it and they are the parties most immediately interested. He cannot see what interest is to be protected by keeping the value of the dollar at 5s 1d. in Canada when it is at 5s. in other parts of B. N. A. While there can be no objection to assimilating the currency of Canada to that of the United States, there are many advantages owing to the growing intercourse between the two countries and the circulation of the bank notes of each on the borders of the other.

After receiving these remonstrances, Earl Grey, in a despatch to Lord Elgin, dated April 9th, 1851, sends him a further communication from the Lords of the Treasury, and for the reasons given in their letter he considers it necessary to have the currency act disallowed. At the same time he is anxious to assist in establishing a uniform currency for all the provinces of B. N. A. He would suggest that the several legislatures appoint commissioners to meet in Canada to consider this subject. Uniformity he thinks would be best secured by adopting the British system entirely. At the same time payments might be allowed to be made in foreign coins whose rates should be determined from time to time by their actual value in the market and published in the Gazette, as in the case of the averages of grain in Britain. He has sent the same suggestion to the Governor of New Brunswick, where another currency act has been disallowed for similar reasons.

In the letter from the Treasury Board which accompanied this despatch, their Lordships condescend to discuss the currency question more fully, over the head of Mr. Hinck's memorandum. They profess to see nothing in his arguments to alter their opinion. The fact that the act was unanimously passed by the Canadian Legislature simply proves, in their opinion, the general ignorance of that body as to the enormity of the constitutional offence which they were committing. Authorities are cited to show that the right of coinage so entirely belongs to the Crown that the Sovereign herself cannot delegate it. The alteration of the coinage in one part of the Empire would affect many contracts between subjects of Her Majesty. They have to admit, however, that the colonies having been permitted to fix the rates of various coins in the past,



might expect to have authority to alter them. But the real ground of their Lordships' objections is reached when they point out that all previous measures altering the currency were submitted to the Home Government before being sanctioned, while this last was sanctioned immediately, contrary to the instructions given to all colonial Governors. Duly magnifying their office they insist upon all colonial money bills being reserved as formerly. Responsible government, evidently, is not to apply to matters concerning their department.

In emphasizing the necessity for a more detailed interference with colonial legislation, they point out that the ratings of coins vary from one Province to another. They fully admit that a uniform currency throughout the provinces is desirable, but object to that of the United States being adopted, the English standard being preferable for many reasons. They particularly object to the clause lowering the rating of the dollar from 5s. 1d. to 5s., since at the lower valuation it would tend to be exported and gold to take its place, as in the United States. They are also opposed to a special colonial coinage, and maintain that, if the silver coins are to be limited in legal tender and gold taken as the standard, the first thing to be done is to abolish all bank notes for smaller sums than the standard gold coin. Much more to the point is their argument, that since the coinage has to meet the requirements of foreign exchange as well of domestic currency, it must have a recognized standing abroad, and this is scarcely possible in the case of a small and undeveloped country like Canada, whose coinage would be treated merely as bullion and melted down instead of being returned to the country. Further, a separate coinage granted to one colony could hardly be refused to others, and without a common standard there would be endless confusion. In any case, therefore, a uniform currency system in British North America is a necessary preliminary to a special coinage. Various minor objections are also raised and on all the grounds cited they urge the disallowance of the act.

To the long and somewhat rambling arguments of the Treasury Board Mr. Hincks made a second reply which was both able and vigorous, and brought out several eulogies from his opponents in the Legislature.

On the first point made by the Treasury Board, that the right of coining belongs wholly to the Sovereign, Mr. Hincks

1) simply accepted the authorities cited by their Lordships and boldly claimed sovereignty for the Legislature of Canada. He maintained that the Crown had no greater rights in Canada than in England. The British coinage is fixed not by the Sovereign, but by a specific act of the British parliament which has no application beyond Britain itself. The Canadian parliament simply claims a similar right to fix the standard of the coinage for Canada. As to the anomalies of the colonial coinage, which are attributed to the mistakes of the colonial legislatures, he turns the tables on their Lordships once more by pointing out that these anomalies were due to the interference of the Home Government. It was intimated that unless the rating of the dollar was changed from 5s. to 5s. 1d., the Canadian currency act of 1841 would not be sanctioned. At the time the change was considered by all parties in Canada to be a mistake, and ten years of experience has confirmed that judgment.

In replying to the statement that the rating of the dollar at 5s. 1d. is more correct than at 5s., he gives evidence to show that this cannot be established theoretically, while practically, since the passing of the act of 1841, which rated the dollar at 5s. 1d., gold has been at a premium of one to two per cent. in Canada, Canadian bank notes at a discount of two to three per cent. in the United States, and exchange on New York at two to three per cent. premium. On the other hand, since changing the rate to 5s. these difficulties have disappeared.

1) 5) The chief object of the act under discussion was to assimilate the Canadian currency to that of the United States, with which country their dealings are both extensive and detailed, whereas with Britain they are largely of a wholesale nature. That there is no difficulty to be apprehended in connection with the redemption of small notes, is proved by the experience of the United States. As to the impossibility of Canada supporting a special coinage, while he does not see why such a coinage should not be accepted in the United States as readily as Canadian bank notes, still this is not a very urgent feature and the Canadians may be quite willing to make use of the American eagle both as standard and currency. It is, however, quite impossible to force the adoption of the British standard in Canada. There is already a very widespread demand for the adoption of a decimal currency like that of

the United States, and to attempt to force the British standard would only lead the sooner to the decimal system.

With reference to the importance attached to the fact that the act was not reserved, Mr. Hincks simply points out that a great change has lately come over the relations of the self-governing colonies to the Imperial Government. Royal instructions have been departed from in many more vital matters than the currency, and it would be a great mistake to mar the liberal policy which has of late prevailed in the great essentials of colonial administration by factious interference in small matters by sub-departments of the Home Government.

The Colonial Office made no attempt to answer Mr. Hincks's arguments. Nevertheless the act was disallowed by an Imperial Order-in-Council, the reason assigned being simply the technical one, that the Governor-General had acted in contravention of the thirteenth clause of the Royal Instructions, which required him to reserve all money bills for the Royal pleasure.

Though the Canadian Government had failed for the moment, in its attempt to place the currency system upon a foundation more suitable to the needs of Canadian trade and commercial intercourse, yet the discussion of the subject with the Home Government had considerably cleared the atmosphere. It prepared the way also, for a more radical alteration of the currency standard than would have been at all possible, had not the Imperial Government been finally convinced that it was impossible either to coax or force the North American Provinces to adopt the British system of currency. Led by the mercantile and banking interests, British North America was steadily moving towards the decimal system of dollars and cents already long established in the United States.

ADAM SHORTT.

## FRAUDULENT ALTERATION AND THE EFFECT OF NEGLIGENCE.

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BY G. H. A. MONTGOMERY, B.A., B.C.L.,  
OF THE MONTREAL BAR.

In view of the interest excited in banking as well as in legal circles by the recent decision of the Privy Council in the now familiar case of the Imperial Bank of Canada and the Bank of Hamilton, a brief discussion of the principles upon which this case was decided, and of the rules which have been laid down for the determination of similar cases, may not be out of place in this Journal. The question broadly stated is as follows:—

When a loss has been occasioned by reason of the fraudulent alteration of a Bill, what effect will be given to the fact that the negligence of one of the parties to the Bill has, to some extent, facilitated the fraudulent alteration? At first sight it would seem that the familiar principle should govern that when one of the two innocent persons must suffer, it ought to be the one who, by his own acts, has occasioned the loss. But this principle, though it has been followed in a great many cases and seemingly equitable as it is, has been declared to be too broad for universal acceptance. As Bowen, L. J. observed, "The law of England does not consider that what a man writes on a paper is like a gun or other dangerous instrument; unless he intended to deceive, the law does not, in the absence of contract, hold him responsible for drawing his certificate carelessly."

Where the party guilty of negligence in respect to the drawing or acceptance of a Bill is shown to have acted in complicity in the fraud, it is of course evident that he cannot be allowed to benefit by it but, apart from this case, the fact that one of the parties has in good faith been guilty of negligence which may have, to some extent, contributed to the loss, gives rise to many interesting questions. Each case, of course, involves a question

of fact, and must to some extent be decided upon its merits, but we may now take it, that the test to which the facts will be submitted, are the following:—

1. Was there any duty incumbent upon the party charged with the negligence as toward the party seeking to hold him liable, to take precautions against the subsequent fraudulent alteration of the Bill, or to see that it was not in such a form as to invite or to facilitate such fraudulent alteration?

2. Was there a breach of that duty in the particular case?

3. If so, was the breach the proximate cause of the loss?

WAS THERE A DUTY?—It can now be regarded as conclusively settled that no such duty exists between the drawer or acceptor of a Bill, and the subsequent parties to it. In fact, in the case of the *Imperial Bank v. the Bank of Hamilton*, this point was really not pressed before the Privy Council, as it had already been passed upon by their Lordships in the case of *Schofield v. The Earl of Londesborough*. A.C. (1896) p. 514.

In the latter case the drawer purposely used a stamp of unnecessary value, and left blank spaces so that he was enabled to raise the Bill, after its acceptance, from £500 to £3,500. It was contended that the Earl of Londesborough, in accepting the Bill so drawn, was guilty of negligence, and should bear the loss. Their Lordships were unanimous in giving a ruling adverse to this contention, and in this they confirmed the opinion of the majority of the Judges in the Courts below.

The principle grounds of the judgment were, that there was a complete absence of contractual relations between the Defendant, who was the acceptor, and the Plaintiff, who was a subsequent holder of the Bill. That in accepting the Bill, the sole obligation undertaken by the Defendant, was to pay the amount for which it was drawn, £500, and that he assumed no responsibility for the subsequent acts of third parties. They also cited, approvingly, the remarks of different judges, to the effect that a party was not bound to contemplate that a Bill was going into fraudulent hands, nor that by the perpetration of a crime, it would be altered. They appear to have been further influenced by the inconvenience and difficulty which a contrary holding would entail, since, if the duty were thrown upon the acceptor, of protecting subsequent holders from forgery, it would be within the right of the acceptor to return every Bill unsigned, if it were not so drawn as to exclude all

reasonable possibilities of fraud or forgery, the exercise of which right would lead to very serious complications in commercial transactions.

Lord Halsbury also took the ground that it would be impossible to specify what precautions the drawer or acceptor would be bound to adopt, or to foresee to what lengths their responsibility might be carried.

"As Mr. Bugnet truly says, it would be impossible to particularize all the things that might have to be considered—the sort of paper, the ink. There are well-known precautions which, for greater security, some banks take to prevent the forgery of their notes. There are some colors which prevent, or at all events render difficult, imitations by photography; and is it to be in each case a question for the jury whether this or that precaution was omitted in drawing a bill, or in accepting it when drawn?"

"It seems to me it would be a very serious proposition to lay down that such questions should be permitted to arise when dealing with such an instrument as a Bill of Exchange; and other questions would then naturally arise, as, I think, was pointed out in the course of the argument—a minute examination of every Bill tendered for acceptance, and a consideration of how far its form might give an opportunity to a forger to forge and escape detection."

As between drawer and acceptor or as between a bank and its customers, their Lordships expressly refrained from passing upon the effects of negligence, so that we have no recent authoritative holding upon the question. The case of *Young v. Grote* was followed for many years as settling that where there was negligence on the part of the customer in drawing his cheques, the bank would be relieved. This decision was relied upon by the Appellants in the case of *Schofield v. the Earl of Londesborough* but, while it was discussed at great length, their Lordships distinguished it from the case under consideration, and refrained from saying whether they would follow it in a similar case. The decision in *Young v. Grote* was based upon the principles of mandate as enunciated by Pothier, the holding being that the bank were the agents of the customer, and that the customer was, in consequence, bound to indemnify the bank, their agent, for all loss occurring in the

execution of the mandate, and occasioned by the fault of the customer. The same rule would apply as between the drawer and the acceptor of a Bill of Exchange.

No relations of mandate existed in the *Londesborough* case, and it was upon this ground that their Lordships distinguished it from *Young v. Grote*. The language of Lord Halsbury would seem to indicate though that he felt doubtful as to the correctness of the decision in the case of *Young v. Grote*, and as to whether the doctrine of Pothier, which it followed, could really be applied *in toto* to our law.

“Mr. Bugnet, the learned commentator, points out in the note quoted that it is impossible to render the drawer responsible for an act to which he is no party, and it would be impossible to particularize all the precautions that it would be necessary to take. The language used ‘*la faute du tireur*,’ may be satisfied by a great many things which certainly the English Law would not recognize as an answer, but which the language of Pothier would obviously include.

“The careless keeping of a cheque-book, like the careless keeping of the seal of the Bank of Ireland *vs.* Trustees of Evans’ Charities, might well satisfy the words ‘*faute du tireur*,’ and I confess I should regard with great apprehension a decision that anything that a jury should regard as ‘*faute du tireur*’ should render a forged instrument valid.”

In another portion of his remarks, he would, however, seem to approve of the decision to a limited extent, as between banker and customer.

“If, to use Lord Cranworth’s phraseology, the customer by an act of his has induced the banker to act upon the document by his act or neglect of some act usual in the course of dealing between them, it is quite intelligible that he should not be permitted to set up his own act or neglect to the prejudice of the banker whom he has thus misled, or by neglect permitted to be misled.”

Lord Watson would also appear to give a species of negative approval to the doctrine relieving the bank:

“If, on the other hand, the decision in *Young vs. Grote* was based upon the ratio that the customer in filling up the cheque through his wife, whom he had constituted his agent for that purpose, had failed in the duty which he owed to his banker by giving facilities for its fraudulent alteration, I am not prepared to affirm that it cannot be supported by authority.”

Lord Macnaughten expressed a more affirmative approval:

"Whatever may be the better ground for supporting the decision in *Young vs. Grote*, it is obvious, on referring to the report in *Bingham*, that the court went very much on the authority of the doctrine laid down by *Pothier*, that in cases of mandate generally, and particularly in the case of banker and customer, if the person who receives the mandate is misled through the fault of the person who gives it, the loss must fall exclusively on the giver. This is not unreasonable."

Lord Shand refers to the decision as follows:

"The case of *Young vs. Grote*, between a banker and his customer, was one in which there was the relation of parties contracting with each other. It appears to me that the ground of decision, as reported, was in conformity with the limited doctrine of *Pothier*, that this relation inferred, if not expressly, at least by implication, the duty and obligation on the customer's part in issuing cheques on his banker to third parties, to take care that these were not in such a form as to give the means of enlarging their amount without this being readily detected."

In the case of the *Imperial Bank of Canada vs. the Bank of Hamilton*, Lord Lindley, in rendering judgment, would seem to indicate that he considered the case of *Young vs. Grote* to have been overruled by the decision of the House of Lords in *Schofield vs. the Earl of Londesborough*, whereas, in reality, they only distinguished from it. We are therefore justified, under the jurisprudence as it now stands, in assuming that as between a banker and his customers, or between a drawer and acceptor, the ordinary rules of mandate will be applied, and that the bank will be relieved wherever the customer has failed in his duty toward it.

**WAS THERE A BREACH OF DUTY?** This is, of course, rather a question of fact than of law. The following are, however, illustrations of what have, and of what have not, been considered by the court, to be breaches of duty:

*Guardians of Halifax Union vs. Wheelwright.* L. B. 10 ex 183.

"The Guardians were in the habit of passing orders upon their treasurer, who was local agent of the bank in which their money was deposited. Some of these orders, written by their clerk, and thereafter signed by the guardians, were drawn by



the clerk in such a way that he was enabled to increase their amounts before he presented them for payment. The court held that the treasurer was in the same position as if he had been their banker; and that the guardians were estopped by their negligent drawing of the orders, from maintaining that he had not their authority to pay the full amount of these orders, as fraudulently increased."

The Lachine Rapids Co. vs. the Bank of Hochelaga. This is a case recently decided by Mr. Justice Doherty. The plaintiff being indebted to a Mrs. Barlowe, handed a cheque for the amount to one of her relatives, but made payable to her order. The relative forged her endorsement, and the cheque was cashed by the defendant bank, and passed through the clearing house, where it was paid by the plaintiff's bank and charged up to their account. Upon being sued for the amount, the plaintiff summoned the Bank of Hochelaga in warranty. The bank pleaded that by handing the cheque to another than the payee the plaintiff had been guilty of negligence, and had afforded an opportunity for forgery. This pretention was, however, over-ruled, the fault, if any, not being held to be sufficient to relieve the bank. It has also been held that giving a cheque to a stranger, or carelessly leaving a cheque-book exposed, if negligence, is too remote.

WAS THE BREACH OF DUTY PROXIMATE CAUSE OF THE LOSS.—To show that the customers had been guilty of negligence would not be sufficient to relieve the bank. It would be necessary, in addition, to show further, that the loss was directly attributable to the particular act of negligence. Thus, in the case of the Lachine Rapids Co. vs. the Bank of Hochelaga, it was held that even if the plaintiffs were guilty of negligence, it was not the proximate cause of the loss, since the bank had cashed the cheque, relying upon their acquaintance with the party presenting it, and not because the company had delivered it to the wrong party.

Again, in the case of the Imperial Bank of Canada vs. the Bank of Hamilton it was held that even if negligence was imputable to the respondent in cashing the cheque without examining the drawer's account, which would have shown that there were not sufficient funds, this was not the proximate cause of the loss since it did not induce the appellant to treat the cheque

as good, and it was not proved that the position of the appellant would have been at all improved even if the respondent had, before cashing the cheque, examined the drawer's account and discovered the fraud.

It is thus apparent that the road set for any bank endeavoring to be relieved from the loss occasioned by forgery, is rather an uphill one, but it is to be hoped that our banks receive their compensation in some other way.

THE QUEBEC SUCCESSION DUTIES ACT AS APPLIED  
TO BANK STOCKS AND AS AMENDED AT LAST  
SESSION OF THE QUEBEC LEGISLATURE,

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BY CHARLES M. HOLT, K.C.

The Quebec Succession Duties Act, as it now reads, levies upon all property of every nature and kind actually situate in the Province of Quebec, no matter where the death occurred. An important change in the Act appears to have been brought about by the statute passed at the last session of the Quebec Legislature and sanctioned on 25th April last.

This amending Act is not retroactive in its effect, so that it does not apply to successions in which the death occurred prior to 25th April last. Succession duties are, in the opinion of the best authorities, not so much taxes, as limitations upon the right of succession and inheritance. Consequently, although the amount of the duty is not ascertained until later, the duty itself vests in the Crown immediately upon the death occurring, as the succession opens at that date. Thus, in the event of a death prior to 25th April last, and an appraisal of the estate and rendering of an account by the government fixing the amount of duty subsequent to 25th April last, the statute applicable would be the Act as it stood before the recent amendment.

That amendment is likely to have a far reaching effect, and it may be well to state here the reason for considering it not retroactive in its application.

Leaving the title aside, there is nothing whatever in the Act to show an intent to make it retroactive; it is, on the contrary, stated to be an "amendment" to the original Act.

As to the title ("An Act to remove doubts respecting succession duties") it has not, in the first place, the full force of a clause in the body of the Act, though it may be referred to, to aid in construction if the body of the Act is obscure. This obscurity does not exist here. In the second place, the title to this Act, if it *be* considered, does not necessarily imply that

the Act is retroactive, the "doubts to be removed" would seem rather to refer to doubts to be removed for the decision of cases arising subsequent to the Act.

The Act before amendment read as follows, "All transmissions owing to death, of the property in, usufruct or enjoyment of, movable and immovable property in the province, shall be liable to the following taxes, calculated upon the value of the property transmitted after deducting debts and charges existing at the time of the death."

As amended on 25th April last, it now reads as follows, in addition to the section above cited:—

"The word property within the meaning of this Act shall include all property, whether movable or immovable, actually situate or owing within the province, whether the deceased at the time of his death has his domicile within or without the province, or whether the debt is payable within or without the province, or whether the transmission takes place within or without the province."

Our highest judicial authority, the Privy Council, has held in the case of *Lambe v. Manuel*, that the Act before amendment did not levy duty upon personal estate actually situate here, in cases where the owner was domiciled at the time of his death in Ontario.

In that case, the action was brought for the recovery of succession duties alleged to be due on part of the estate of the late Allan Gilmour, a resident of the city of Ottawa, in the Province of Ontario, who died there on 25th February, 1895. After making a few legacies, the deceased bequeathed the rest of his estate, amounting in value to about \$1,300,000, to John Manuel, who was a personal friend but not a relative.

At the time of Gilmour's death, part of his movable property, consisting of about \$100,000 in the capital stock of the Merchants Bank of Canada (and possibly \$300,000 in stock of the Canadian Bank of Commerce on the Montreal register) was actually and locally situated in the Province of Quebec, and an action was brought by the collector of provincial revenue for the district of Montreal, for the recovery of Quebec succession duties on this property, on which, it appeared, the defendants had already paid succession duties under the law of Ontario.

The only question involved in the suit was, whether the actual and local situation of the personal property in question rendered it liable to duty under the law of the Province where it was actually situated, or whether the maxim *mobilia sequuntur personam*, should not be applied.

The Privy Council held that under the wording of the Quebec Succession Duties Act before amendment such property was not liable to duty, as the maxim was applicable, and by legal fiction the property had a constructive "situs" and was presumed in law to be located at the place where the owner was domiciled at the time of his death.

The Government of the Province of Quebec would appear to have accepted this decision as entitling them to levy duty upon movable and personal estate actually situate abroad, but belonging to an owner whose succession opened in the Province of Quebec, and thus held to be by the operation of the legal fiction above referred to, constructively situate in the Province of Quebec. In other words, in cases of successions opening in Quebec under the Act before amendment the Government have, since the decision in *Lambe v. Manuel*, rendered accounts for duties levied on the estate of the deceased, including such part of his personal estate as happened to be actually located outside the Province.

Thus shares in the capital stock of Banks and other corporations whose head offices were situate outside the Province, were considered by the Government liable to duty under the Act before amendment when the deceased owner's domicile was in Quebec, and thus the succession opened here, and this view was no doubt correct. The converse principle was likewise accepted by the Government, that where the decease occurred and the succession opened outside the Province, no duty was liable on such personal and movable effects as happened to be actually located in Quebec.

The Government was thus restricted to levying duty on Quebec estates.

The new Act has changed this position. The legal fiction applied in the *Lambe v. Manuel* case has apparently been discarded by the Government, if we are to apply the maxim *expressio unius est exclusio alterius*. The new Act declares that the word property shall include all property, actually situate within the Province, and the question yet to be raised and decided is, as to whether this provision is *restrictive*. It may be

that the Government will claim that it is not so, and that besides bringing all property actually in Quebec within the scope of the Act, they are also entitled to the benefit of the legal fiction which would hold foreign moveable property to be constructively in Quebec where the domicile of the deceased was in Quebec. In thus taking with both hands, the Quebec Government would be following the example of the Government of Ontario. The latter Government has, while taxing all property actually situate in Ontario, expressly reserved the right to tax also foreign property constructively situate in Ontario under the legal fiction.

The Ontario Act expressly makes taxable "All property situate within this Province and any interest therein or income therefrom, whether the deceased person owing or entitled thereto was domiciled in Ontario at the time of his death, or was domiciled elsewhere; and all moveable property locally situate out of this province, and any interest therein where the owner was domiciled in this Province at the time of his death, whether such moveable property passes by will or intestacy."

For the reasons given above it seems possible that the courts would hold that in taxing all property actually within Quebec, without expressly reserving the benefit of the legal fiction as did the Ontario Act, the Quebec Government have lost the power to invoke the benefit of the legal fiction, and that Bank stocks and other stocks in corporations whose head offices are outside the Province of Quebec, are not subject to the Quebec duty, even when they belong to Quebec estates.

## BANKING IN CANADA, AUSTRALASIA AND SOUTH AFRICA.

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THE figures of the monthly statement of the Canadian chartered banks justly attract attention from the business community. Comparisons of no little interest are made between the situation of the different institutions, as represented by the statement, and it is agreed that these comparisons are useful as well as interesting. In this case, as in practically all statistical compilations, the meaning of any particular figure can only be appreciated by comparing it with other figures. The record of the corresponding date of previous years serves to show the progress, or otherwise, of banking, and of the business activity which is reflected in the banking records.

But the interest and utility, of reading the figures of any particular monthly statement in the light of other corresponding figures, are not exhausted by making use of Canadian data alone for comparison. In view of the widespread manifestations of interest in other parts of the great Empire of which Canada forms so important a part, it has suggested itself that an attempt to compare the banking position in Australia and in South Africa with that in Canada may be worth making, in spite of the difficulties necessarily involved in comparing dissimilars.

In South Africa the recent emergence from a state of war is having a profound effect on every kind of business movement, and the banks very naturally show abnormal changes in their balance sheets. In Australasia the effects of the banking collapse of 1893 have not yet ceased to weigh on some important institutions, while the prolonged drought, affecting such important sources of wealth in every State of the Commonwealth, must also leave its mark on the banks. To compare Canadian banks, after several years of remarkable prosperity, with the banks of Australia after years of insufficient rainfall on that island continent, might be expected to show our own country in a favourable light.

The data available for the purposes of my comparisons are not as exhaustive as I could have desired, but they cover sufficient ground to bring out several features of interest without fear that the points involved would be lost if the data were made absolutely exhaustive. I have found the banking supplements of the London *Economist*, and articles in that journal from time to time, most useful, supplemented by reference to the *Banker's Magazine* and to year books of Australia which supplied some very valuable data.

In South Africa, the position is illustrated by the balance sheets of the five chief banks, the African Banking Corporation, the Bank of Africa, the Natal Bank, the National Bank of South Africa and the Standard Bank of South Africa. In view of the recent reconstruction of the capital account of the Robinson Banking Company, I have decided to follow the *Economist* in omitting that company from the list which supplies the data for comparisons.

The aggregate capital of the five companies mentioned, at the end of 1902, was £3,978,300, or \$19,361,060, the reserve funds amounting, at the same date, to \$10,755,333. It will be convenient to state the principal items of the composite balance sheet in tabular form, and the following table affords some basis for comparing the situation here with that in South Africa, as well as to mark the advance since the end of 1897, a date selected to afford a comparison with conditions before the outbreak of war.

	South Africa.		Canada.	
	1902.	1897.	1902.	1897.
	\$	\$	\$	\$
Capital.. . . .	19,361,060	14,506,353	72,795,440	62,289,326
Rest Account .. . . .	10,755,333	6,148,060	44,517,681	27,515,999
Circulation .. . . .	12,034,933	8,413,464	60,574,144	37,995,123
Deposits and Current Accounts .. . . .	220,378,654	112,726,040	417,036,997	229,389,055
Cash in hand* .. . . .	70,772,251	36,350,934	37,622,810	25,994,071
Stocks and Bonds.. . . .	37,646,461	17,782,313	61,261,206	35,474,299
Loans and Discounts.....	98,753,159	70,139,023	452,100,270	225,790,839
Bills of Exchange .. . . .	65,289,789	25,869,231		
Premises and Stationery...	4,321,473	2,981,656	7,756,236	5,697,933
Aggregate of Assets or Liabilities .. . . .	277,697,456	153,122,157	625,388,209	360,133,088

\* Includes balances with bankers in London, etc., in case of South African banks.

NOTE—[Bills held for collection on account of customers, shown on both sides of the accounts of South African banks, have been omitted in the above totals. Deposits include Government accounts.]



The growth in the business of the South African banks in the five-year interval represented by the above is very striking. It is to be observed, however, that three-fifths of this growth, judging either by the balance-sheet aggregates or by the deposits, took place in the year 1902. In view of this, the expansion of the business of our chartered banks is truly noteworthy, as it is an expansion which has proceeded with great regularity throughout the period covered.

The movement in South Africa is further illustrated by the fact that four of the five banks concerned (the data for the National Bank are not to hand) increased their branches from 160 at the end of 1897 to 190 at the end of 1901, and then further to 248 in 1902.

Of the deposits held by the South African banks, some 26 million dollars were held outside Africa in 1897. The figures for 1902 do not show the Transvaal deposits separately, but more than one-half of the deposits were held outside the colonies of the Cape of Good Hope and Natal. The expansion of deposits in these two colonies in 1902 was barely 10 per cent., and it is probable that the bulk of the increase was in the Transvaal. Even so, however, the figures of 1902 show almost as favourably for the older colonies, in comparison with 1897, as for the new. The deposits in Natal and Cape Colony each increased by about 120 per cent. in that interval, and that figure cannot have been greatly exceeded by the Transvaal, in view of the following, for which round figures may suffice:—

Deposits in	1897.	1902.
Cape Colony .. .. .	\$36,500,000	\$81,700,000
Natal .. .. .	11,100,000	24,300,000
Transvaal.. .. .	38,600,000 }	114,400,000
London .. .. .	26,400,000 }	

Unless, then, the deposits outside South Africa have substantially decreased, even the phenomenal growth in the Transvaal during 1902 has no more than brought that country into line with its neighbours in the matter of growth since 1897. It may be added that the Transvaal figures for the year 1897 denote a state of relative depression, so that the selection of that year does not make the comparison unduly unfavourable to that colony.

For purposes of comparison, it is useful to note that the chartered banks of Canada held deposits outside the Dominion equal to about one-tenth of those held in Canada in December last. Before proceeding to any further comparisons suggested

by the preceding table, 'it will be convenient to consider corresponding data for the banks of Australasia, of which 22 are included in statutory returns to the governments. Five of these have head-offices in London. The summary of leading items in the balance sheets for 1902 and 1897 is given in the following table. The balance sheets are, of course, not made up at a uniform date, but the position as at the end of the years named is sufficiently shown by the aggregate of their figures. The addition of corresponding figures for the beginning of 1893, just preceding the banking collapse, affords an instructive exhibit. The latter figures do not include the data relating to the English, Scottish and Australian Bank, but are otherwise complete:

	Australia and New Zealand.		
	Dec., 1902.	Dec., 1897.	Mar., 1893.
	\$	\$	\$
Capital.. . . .	94,126,346	121,822,916	71,416,241
Reserve .. . . .	27,909,881	23,205,328	37,775,067
Circulation .. . . .	23,681,156	20,075,107	23,700,579
Deposits .. . . .	611,971,352	582,182,378	708,960,035
Bills payable .. . . .	54,899,952	62,299,718	66,415,979
Coin and bullion and cash balances .. . . .	159,677,212	152,940,378	128,880,823
Public Securities .. . . .	68,447,652	44,447,622	36,246,096
Loans and Discounts.. . . .	570,210,096	585,201,453	719,576,836
Premises .. . . .	28,451,463	29,906,567	27,523,000
Aggregate of Assets or Liabilities	826,786,423	812,496,020	912,226,755

The statutory returns show that the average of deposits in Australia and New Zealand for the quarter ending December last was \$523,650,000. How much of the difference, between this figure and that in the above table, is due to the latter being the aggregate shown in differently dated balance-sheets, while the former is an average over three months, can only be guessed. Deposits held outside Australasia will account for any difference not so caused. The figures as they stand appear capable of being interpreted quite reasonably to show the deposits held in Australia and New Zealand and those held in London. The coin and bullion item in the quarterly averages amounts to three-quarters of that shown above for December, 1902. This fraction may be taken to give the measure of the proportion of coin and bullion to the other cash items, included with it in several of the balance-sheets without distinction.

The capitalizing of deposits after 1893 is indicated in the table given. The ordinary capital in 1897 represented about two-thirds of the total capital, and nearly three-fourths in

1902. The remainder was made up of preference and perpetual stocks. The deposits then, and still, include a considerable amount of what must be regarded as intermediate in character between deposits proper and borrowings on debentures, and thus cannot be compared strictly with deposits as we commonly use the word. The terms for accomplishing the repayment of these debts of the banks are various, but extend in one case to the middle of the year 1921. The writing down of capital still continues, nearly 5 millions of dollars less being shown against this item at the end of 1902 than a year previously.

In comparing the Canadian and Australasian positions, one naturally recalls the fact that the Australasian population is in the neighbourhood of 5,000,000, while the Canadian may be taken as 5,500,000. There is thus no great inequality of population, or of area of territory, though whether this extends to area of territory brought under some 'kind of development I do not know. The South African territory cannot offer any even superficial resemblance, whether 'in extent, degree of development, or population supported. The white population probably does not exceed 1,000,000, but there is a large native population. Comparisons of banking business per head of population cannot be very instructive in view of these facts, though such a mode of comparison is tempting. Compared with the capital, the Rest Account of the South African banks is nearly 56 per cent., as against a little over 60 per cent. for the Canadian banks. The Australasian banks show a Rest barely 30 per cent. of the capital, though the growth of reserves, and the writing down of capital, are improving this proportion. The circulation of bank-notes in Canada is much 'greater than in either of the two outlying divisions of the Empire with which our present comparisons are concerned, both absolutely and in comparison with either banking capital or deposits. Compared with deposits it was about four times as great at the end of last year as the Australasian circulation, and about two-and-a-half times as great as the South African.

Deposits were  $6\frac{1}{2}$  times the capital of the Australasian banks,  $11\frac{1}{2}$  times the capital of the South African banks,  $5\frac{1}{2}$  times the capital of the Canadian banks. Comparing the aggregate of note-circulation and deposits, that is of money borrowed by the banks from their clients, with the sum of capital and reserve, that is of proprietors' funds employed in the business, we find the following proportions: Canadian banks

show circulation and deposits four times the capital and reserve; South African banks show a proportion of nearly seven-and-a-half to one; Australasian banks show a proportion somewhat greater than five to one. The depositors in Canadian banks have larger funds belonging to shareholders between themselves and loss from banking failure than either of the other two groups. On the other hand, the funds on which dividends have to be paid are a larger proportion of the funds usable in earning those dividends in Canada than in her sister colonies. These reflections suggest some other points for attention, to which we shall presently proceed. There remain, however, a few further points to notice in the balance-sheets.

First comes the large holdings of cash in the other groups as compared with the Canadian banks. This is probably due to the fact that Canada has a far more convenient resource in call loans than either South Africa or Australia has. The close proximity of New York, and its strength as a financial centre, affects the form of the liquid assets convenient to banking institutions.

In the item of stocks and bonds, all three groups of banks contrast somewhat strikingly with the banks of England and Wales. These banks held about 20 per cent. of their assets in the form of stocks and bonds at the end of last year, while 10 per cent. more nearly represents the colonial position. The South African banks held about  $12\frac{1}{2}$  per cent., the Australasian banks only a little over 8 per cent., while the Canadian banks held nearly 10 per cent. The differences between the contingencies to be faced by the banks of England and Wales and by the colonial banks are a reason for putting a smaller part of their assets in the shape of readily realizable stock exchange securities. The small proportion of the Australasian banks is very noteworthy, and the yet smaller proportion held by them ten years ago were even more so. The absence of a strong local stock market would naturally deprive these investments of their peculiar characteristic of availability which commends them so strongly to conservative English bankers. The small amount of public securities held, then, is by no means a sign of the ignoring of the sound rules which British bankers follow as to the keeping of assets in particular shapes.

The premises account of Australasian banks contrasts most strikingly with that of either the Canadian or the South African banks. Even in comparison with banks operating in centres like London, the amount is large. Four important

banks operating in London and the provinces, with 581 branches, whose accounts were under examination for the purpose of a later paragraph, show barely 2 per cent. of their assets standing to account of bank premises and fittings. Half-a-dozen Scotch banks, with 809 branches, have about  $1\frac{1}{2}$  per cent. of assets so represented. The Canadian banks have  $1\frac{1}{4}$  per cent. of assets standing against premises, the South African about  $1\frac{1}{2}$  per cent. The item represents about  $3\frac{1}{2}$  per cent. of the assets of Australasian banks. Examination of the separate accounts shows that this is not due to inclusion of other real estate with bank premises, at any rate where the balance-sheet itself distinguishes between the two. It seems clear that the practice of writing down the value of bank premises has been followed more persistently and consistently in other divisions of the Empire than in Australasia.

A reference above to the extent to which creditors of banks are protected by the shareholders' funds used in the business suggests to the mind the further protection of the double liability of shareholders in the chartered banks of the Dominion. It may be worth while recalling to the attention of some of the younger readers of these pages that, though the double liability does not exist, in form, in the case of either of the groups of banks with which comparison has been made, the reality is not very different in their cases from that presented by our own banks. Thus the South African banks (omitting the National) have, in addition to the 24 millions of dollars of shareholders' funds which appear in the balance-sheets, a further liability of shareholders amounting to nearly 33 millions, of which 13 millions is only callable in case of insolvency, that is, in the same eventuality as that which brings the Canadian double liability into play. In the actual situation, the further liability of shareholders is more extensive in South Africa than in Canada. The same situation, though differing in degree, exists in the Southern Confederation and in New Zealand, as also in the United Kingdom. The device of the double liability is, then, no special Canadian protection to bank creditors. In reality the same protection is afforded elsewhere under another name. It might be added that there exist British shareholders in Canadian banks who thoroughly understand the principle of reserved liability, but have failed to realize that there is any such liability on their Canadian shares. Such failures as that of the *Ville Marie* bank have been rude awak-

enings to shareholders of this class. An unfamiliar name had prevented the recognition of a familiar fact.

This subject suggests a point to which a little attention may not be out of place. The attempt to compare the banking situation in the three greatest divisions of the British Empire outside the United Kingdom may lead to fallacious conclusions through accepting as similar matters which are dissimilar. The modes of doing business differ somewhat from country to country, quite apart from the differences shown by different institutions of the same class in any one country. The items of the balance-sheets may possibly not correspond in the degree assumed in compiling our tables. The possibilities connected with these suggestions have prevented any attempt at very precise and close comparisons. Within the limits of the comparisons proposed, the items compared seem to correspond sufficiently to give point to the comparisons.

The necessity of making returns to the local governments imposes on each set of banks a certain kind and degree of uniformity in compiling the balance-sheets which afford the greater part of the information of which use has been made. But precise uniformity is by no means attained. This goes further than is covered by different degrees of detail afforded in the case of different institutions. The question suggests itself whether the accountants of the banks in any one country might not take pains to adopt a uniform method of presenting their balance-sheets. Irregularities which do not seem worth while retaining may be readily illustrated. Thus the Royal Bank of Scotland enters its Rest Account and the balance of the Profit and Loss Account as a single item, differing in this respect from the other banks of North Britain. Some other Scotch banks, of which the Bank of Scotland is one, include investments in stocks and bonds and money at call and short notice in a single item. The London Bank of Australia includes investments in stocks and bonds in the same item with bills receivable.

It would appear to be not very difficult to establish a standard as to what items might properly be grouped together if any particular institution should not desire to state them separately. A study of balance-sheets certainly suggests that, at any rate in minor details, the apparent uniformity of classification of items, in statutory returns made by banks, may possibly cover a good deal of lack of uniformity.

To what extent this may apply to Canadian banks is not known to the writer, but there are some suggestive points in the comparison of the returns, and of the balance-sheets, of different institutions. One minor point may be named, inasmuch as a comment in a financial weekly, published in this country, appeared to be based on an assumed difference between banking customs in the old country and in Canada, while the point of difference involved was one also occurring as between Canadian banks. It related to the treatment of rebate. Some banks enter in their assets the amount of discounts less rebate, with or without statement of the amount allowed for rebate. Some show the rebate on the liabilities side of the account. Some simply state the amount of profit after making allowance for rebate, among other deductions from gross profit, while one Canadian bank, in company with many of the banks whose accounts have been taken into consideration in preparing this paper, states the rebate as an item to be deducted from the net profit.

Now the amount of difference made in the aggregate of discounts, or in the aggregate assets or liabilities, whether rebate is treated in the first or the second of the above methods, is quite small. As it represents a profit not yet earned, it seems clear that the general practice of Canadian banks, in excluding it from net profit, is unquestionably proper. How the misapprehension, to which I referred above, arose, I cannot readily understand, but it shows that even the small differences associated with the treatment of this item are capable of giving rise to confusion.

I have deliberately selected an item as to which it is a matter of relatively little moment, except for the sake of uniformity and precision, what plan of accounting is followed. I confess to regarding the first as the most appropriate, if not the only thoroughly defensible, method of treating the item. But specific reference to this small item is meant to serve the purpose of suggesting the consideration of matters of greater importance to those who are concerned.

We turn now to another, and a very important, feature of the banking returns, namely the profits. Neither in the case of the Canadian or of the Australasian banks am I able to provide a complete statement covering all the banks. In the case of Canadian banks, a compilation of the latest balance-sheets of sixteen banks, whose capital aggregates 58½ million dollars, or four-fifths of the chartered-banking capital of the Dominion,

shows profits aggregating \$7,650,000 in the last financial year. This represents nearly 15 per cent. on the total assets at the end of the year, over 8 per cent. on the total of capital and reserve, and 13 per cent. on the paid-up-capital. For the Australasian banks, the balance-sheets of seventeen out of the twenty-two have been available for the year 1902. The net profits, on a capital of 87 million dollars, or over nine-tenths of that of the whole twenty-two, amounted to \$7,800,000, or about 9 per cent. This is certainly a good showing in view of the state of business in the country. The amount was a little under 7 per cent. on the combined capital and reserve, and a small fraction over 1 per cent. on the aggregate of assets shown in the balance-sheets.

If we go back to 1897, the balance-sheets of 15 banks, with over four-fifths of the total banking capital, and not far short of nine-tenths of the total banking resources, showed a profit of less than one-half of one per cent. on the total assets, of only 3 1-3 per cent. on the capital and 2 4-5 per cent. on the combined capital and reserves. The recovery is indeed a striking one.

The five African banks showed a profit, in the latest financial year, of \$3,273,432. This amounts to nearly 17 per cent. on the paid-up capital, to nearly 11 per cent. on the combined capital and reserves, and to nearly 1.2 per cent. on the aggregate assets shown in the balance-sheets. These profits are a large increase on those of the previous year, which, indeed, fell a little short of the profits of 1897. The latter amounted to \$2,319,500. This was nearly 15 per cent. on the paid-up capital, about 10 $\frac{2}{3}$  per cent. on the combined capital and reserves, and 1.5 per cent. on the aggregate of assets. The lower proportion of profits to total resources in 1902 is probably due to the fact that the resources are stated as at the end of the year, but the actual resources available during the earlier part of the year were considerably smaller. The proportion of profits to average resources is probably not nearly so different as the above figures might, at first sight, suggest.

For comparison, it may be noted that the profits of banks in the United Kingdom, for 1902, as shown in the May supplement to *The Economist*, amount to barely 1 per cent. of the total assets, to not quite 7 $\frac{3}{4}$  per cent. of combined capital and reserves, and to about 12 per cent. of aggregate paid-up capital.

In one important respect, more information is supplied as to the banking business in the other parts of the Empire which



we have been considering, than is supplied by Canadian banks. All the South African banks state the amount of their expenses, which amounted, in 1902, to \$4,345,563, as against \$2,588,974 in 1897. Thus the expenses amounted to rather less than  $1\frac{1}{2}$  per cent. of the total assets in 1902, and rather more than the same percentage in 1897, in each case very substantially exceeding the profits of the year. Profits exceeded expenses in the cases of the Natal Bank and the National Bank in both years, but the balance in the opposite direction for the three remaining institutions determined the relation of aggregate profits and expenses.

Of the 17 Australasian banks whose balance-sheets I have been able to obtain, 12 only stated the amount of their expenses. The net profits of the 12 were not quite three-fourths of those of the whole 17. Their expenses exceeded their net profits by about one-sixth, and were nearly 1.3 per cent. of the total assets in 1902.

Going back to 1897 we find that ten of the fifteen banks, whose balance-sheets afforded a previous comparison, made a statement of expenses. The expenses of that year were no less than  $2\frac{2}{3}$  times the net profits. They amounted to 1.2 per cent. of the total assets, which is a somewhat lower proportion than in 1902. While the expenses increased in the five years by 25 per cent., the profits have multiplied by three. This is a further striking index of the gradual recovery from the effects of the crisis. In Mr. T. A. Coghlan's "The Seven Colonies of Australasia," results substantially identical with the above are given for the whole of the Australasian banks.

A comparison with six of the Scotch banks, having a capital of over 35 million dollars, and aggregate assets of some 500 millions, shows that, in their case, the expenses of 1902 amounted to five-sixths of one per cent. on the total assets, and were two-thirds as large as the net profits of the year.

The four English banks to which reference was previously made were selected because they show separately, not only expenses, but also interest paid to depositors. Their aggregate assets were about 550 million dollars, their profits amounted to 1.1 per cent. on this total, and were substantially equalled by their expenses. The interest paid was rather in excess of one-half of the profits or expenses of the year. It may be worth noting that Mr. Coghlan's book, quoted above, states the interest paid in 1897 by Australasian banks as

greater than profits by 50 per cent. This proportion appears to have been reduced somewhat in 1902 in the cases where the figures are stated.

One further point of comparison, closely related to the earning capacity of banks, may be worth attention before closing. It is suggested by the semi-annual compilation of *The Economist* relating to the market value of bank stocks. The banking capital of the United Kingdom, according to the latest compilation of *The Economist*, stands at an average premium of no less than 236 per cent. The same authority gives data relating to the market value of South African banking capital, from which it appears that the shares of these banks stand at an average premium of 129 per cent. approximately, an improvement of 14 per cent. on the corresponding position twelve months ago. The banking supplement of *The Economist* also affords corresponding data for fifteen of the Australian banks, which show that the market value of the stocks of these banks is at  $12\frac{1}{2}$  per cent. premium on their face-value. A year ago the premium was less than 1.2 per cent.

As to the Canadian banks, the record of prices, on the stock-exchanges of Montreal and Toronto, given in the *Canadian Annual Financial Review*, provides similar data with regard to the market value of their stocks. The smaller banks do not find a place among those whose stocks are quoted, but the record covers 19 banks, with about 85 per cent. of the aggregate capitalization of all the chartered banks. The quoted prices show that the capital of these banks, at the end of 1902, stood at an average market premium of 96 per cent., as against a premium of 86 per cent. a year earlier.

In considering these figures, the fact that the property of the shareholders includes reserves as well as the capital quoted on stock exchanges must be remembered. In addition there are the so-called hidden reserves involved in the valuation of assets on a strictly conservative basis. The Rest Account of South African banks, as stated earlier, stands at about 56 per cent. of paid-up capital, and the nineteen Canadian banks for which quotations were used had reserves amounting to some 61 per cent. of their capital. Thus the difference of stock-exchange valuation corresponds rather to difference of estimated future earning capacity than to differences in the proportion of capital to reserves. In the case of the Australasian banks the reserves shown in the balance-sheets are not yet, in the

aggregate, fully represented in the market valuation of the banking capital. The enduring nature of the injury done to banking interests by the errors which contributed to, if they were not the direct cause of, the crisis of 1893 in Australia, is abundantly illustrated in every aspect of the banking accounts relating to that country.

A. W. FLUX

June 18th, 1903

COMPARISON OF BANK CLEARINGS IN TWELVE CITIES DURING FIVE YEARS.

CITIES.	1898.	1899.	1900.	1901.	1902.
	\$	\$	\$	\$	\$
New York.....	41,971,782,436	60,761,701,900	52,634,201,865	79,427,625,837	76,328,189 165
Chicago.....	5,517,335,476	6,612,313,611	6,799,535,598	7,756,372,450	8,394,872,346
Roston.....	5,425,647,169	7,086,285,271	6,180,308,447	7,191,685,110	6,930,016,794
Philadelphia.....	3,671,676,804	4,811,079,611	4,677,655,906	5,475,345,188	5,875,328,359
St. Louis.....	1,455,462,062	1,638,348,203	1,688,849,495	2,270,737,216	2,506,804,322
Baltimore.....	939,863 169	1,209,777,729	1,084,230,062	1,191,867,587	1,202,803,304
San Francisco ...	813,043,627	970,715,759	1,029,613,589	1,165,250,091	1,369,058,560
Pittsburg.....	975,243,809	1,528,476,639	1,615,379,044	2,046,605,963	2,147,969,759
Cincinnati .....	641,104,850	748,490,350	795,598,750	972,502,450	1,080,903,000
Montreal . ....	731,264,677	794,109,924	734,941,608	889,486,915	1,089,976,730
New Orleans.....	436,723,291	458,219,218	556,790,701	602,264,116	677,111.109
Kansas City....	585,394,369	648,270,711	770,463,269	918,198,612	989,289,157

NO. OF BRANCHES OF BANKS (BY PROVINCES) ON 1ST JAN., 1903.

NAME OF BANK.	Ontario.	Quebec.	New Brunswick.	Nova Scotia.	Prince Edward Island.	British Columbia.	Manitoba.	N. W. T.	Total.
Bank of Ottawa .....	25	25	...	...	...	...	4	1	35
Banque d'Hochelaga.....	1	15	...	...	...	...	1	...	17
Bank of Montreal.....	26	5	4	4	...	8	1	4	52
Banque de St. Jean.....	....	2	...	...	...	...	...	...	2
Montreal City and District Savings Bank.....	....	4	...	...	...	...	...	...	4
The Molsons Bank.....	27	11	...	...	...	2	1	1	42
Bank of British North America .....	7	2	2	1	...	6	2	....	*21
Bank of St. Hyacinthe.....	....	4	...	...	...	...	...	...	4
Imperial Bank.....	21	1	...	...	...	7	3	7	39
Bank of Toronto .....	23	3	...	...	...	1	...	...	27
Dominion Bank.....	23	2	...	...	...	...	6	1	32
Canadian Bank of Commerce	46	1	...	1	...	12	8	4	†74
Standard of Canada.....	25	...	...	...	...	...	...	...	25
Traders " .....	32	...	...	...	...	...	...	...	32
Western " .....	14	...	...	...	...	...	...	...	14
Quebec Bank.....	12	4	...	...	...	...	...	...	16
Eastern Townships.....	....	16	...	...	...	2	1	...	19
Union Bank of Canada.....	11	3	...	...	...	...	26	24	64
La Banque Nationale.....	1	22	...	...	...	...	...	...	23
La Cassie d'Economie de Notre-Dame de Québec.	....	3	...	...	...	...	...	...	3
Merchants of Canada.....	47	14	...	...	...	...	10	9	80
Bank of Hamilton.....	35	...	...	...	...	2	15	3	55
Bank of New Brunswick....	....	...	5	...	2	...	...	...	7
People's Bank of New Brunswick.....	....	...	...	...	...	...	...	...	....
St. Stephens .....	....	...	...	...	...	...	...	...	....
Royal Bank of Canada.....	2	3	10	15	2	7	...	...	39
La Banque Provinciale du Canada .....	....	12	...	...	...	...	...	...	12
†Halifax Banking Company.	....	...	2	15	...	...	...	...	17
Commercial Bank of Windsor, N.S.....	....	...	...	7	...	...	...	...	7
People's Bank of Halifax ...	....	8	7	8	...	...	...	...	23
Union " .....	....	...	...	30	...	...	...	...	30
Bank of Yarmouth.....	....	...	...	...	...	...	...	...	....
Exchange Bank of Yarmouth	....	...	...	...	...	...	...	...	....
Merchants Bank of P.E.I....	....	...	...	...	1	5	...	...	6
Bank of Nova Scotia.....	5	2	11	20	2	...	1	...	41
Ontario Bank.....	20	2	...	...	...	...	...	...	22
Metropolitan Bank.....	3	...	...	...	...	...	...	...	3
Sovereign Bank of Canada..	14	3	...	...	...	...	...	...	17
TOTAL.....	420	147	41	107	7	52	79	54	904

\* Including 1 branch in Yukon Territory. † Including 2 branches in Yukon Territory. ‡ The bank has been amalgamated recently with the Bank of Commerce.

## QUESTIONS ON POINTS OF PRACTICAL INTEREST.

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REPLIES may be obtained through this column to enquiries of Associates or subscribers from time to time on matters of law and banking practice, under the advice of counsel where the law is not clearly established.

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The questions received since the last issue of the JOURNAL are appended, together with the answers.

### *Banking Etiquette.*

QUESTION 554.—Bank "A" sends in an item to Bank "B" due to-day for acceptance, Bank "B" accepts it and Bank "A" immediately sends it in on their deposit of the same day. The item is for \$4,500. Bank "A" asks Bank "B" for a settlement. Bank "B" protests to Bank "A" against sending such items in on deposit the same day they are due, claiming that it is not customary to do so. Bank "A" replies that it is quite customary when the items are large and there is no Clearing House in the town. The custom heretofore prevailing here was the accepting of items the day they are due, and sending them on deposit the next day. What is the custom in other places in this respect?

While Bank "A" was legally justified in their action was it not violating a regular and established custom.

ANSWER.—There was no impropriety in Bank "A" requiring immediate payment of the item.

### *Forged Endorsements.*

QUESTION 555.—

Referring to article on Forged and raised indorsements in the April number of the Journal "Cocks v. Masterman,"

what is the position of the acceptor who has paid a bill bearing forged endorsements. Could he be called upon to pay the money again to the last holder for value prior to the forged endorsement. If the acceptor had knowledge of a forged endorsement on the bill and refused payment to whom would the holder look for payment? Would the holder and the last endorser prior to the forged endorsement have equal rights against the acceptor?

ANSWER.—(1) He could be called upon to pay again to a valid holder.

(2) The holder would look to the party for whom he negotiated the bill (*Vide* 60 and 61, Victoria, Chap. 10.—Act respecting forged and unauthorized endorsements.)

(3) The holder, not being a holder in due course, would have no rights against the acceptor.

*Payment of Original Draft, After Duplicate Has Been Paid.*

QUESTION 556.—“A,” who resides in Montreal buys a sola draft from his Bankers on their Toronto Branch payable to “B” or order, and the draft is lost. The Bank gives “A” a duplicate which is duly paid in Toronto; if the original is subsequently presented for payment by an innocent holder would the Bank be compelled to pay it?

ANSWER.—If the original draft reaches the Bank properly endorsed, it has to be paid. The circumstances call for a satisfactory indemnity before the duplicate is issued.

*Endorsement Without Recourse.*

QUESTION 557.—“A” of Halifax draws upon “B” of St. John, in favour of the Bank “R” for \$100. payable 30 days after date. Bank “R” discounts the bill for “A” and after placing on it the following stamped endorsement, viz.: “Pay to the order of any Bank or Banker, for the Bank “R.” Smith, Manager,” forwards the bill to Bank “Z” for collection. The collecting Bank “Z” of St. John obtains acceptance of the bill and at maturity returns it to the Bank “R” dishonoured for non-payment. Bank “R” erases the above mentioned endorsement and re-collects the amount from “A.”

Can "A" sue "B" on the bill without further endorsement of Bank "R."

The Bill was for value.

ANSWER.—The Bill should be endorsed by the Bank back to "A," without recourse.

*What Constitutes Valid Acceptance.*

QUESTION 558.—We to-day had a bill payable at a chartered Bank, and in accepting same, they simply put the stamp thereon without any initials or folio. Would this be considered a valid acceptance?

ANSWER.—The initials and folio are confirmatory of the stamped certification, and, while desirable, are not absolutely essential.

*When is a Bill Protestable.*

QUESTION 559.—At a point occupied by a chartered Bank only every other day, is the day next the maturing date of a bill the proper date to protest for non-payment, when the due date falls on the day the Bank is not open for business, or in other words, are the days the Bank is not open to be treated as a statutory holiday and protest the day following binding?

ANSWER.—A bill is protestable only on the day of maturity.

*A Question of Endorsement.*

QUESTION 560.—Referring to question 497 in the Journal of July, 1902, we note the answer given, viz., that a guarantee is unnecessary under Section 7 of the rules. During the writer's experience as accountant for ten years at different branches, including Winnipeg and Vancouver, it has been customary, under Rules 4 and 10, to call for a guarantee when endorsed as stated in Question 497 or a similar endorsement.

This custom we have never had questioned until a couple of days ago when we asked for a guarantee of an item endorsed as follows:—"Pay to the order of ..... Bank for credit of ....."

This endorsement was made by rubber stamp. The bank depositing the item refused to guarantee; we therefore took the

item off their deposit slip; they based their stand on Rule 7 re endorsement and we held to Rules 4 and 10. According to Rule 7 a bill so endorsed "may be refused until the restriction is removed."

We have discussed the point with one or two of the local bank managers and they take the same ground as we have taken.

The asking for a guarantee on these restrictive endorsements has been, we have always understood, with a view of leading the public to adopt an endorsement in accordance with the views of the Canadian Bankers' Association.

This endorsement was by rubber stamp, and if the question should arise, would this be a valid endorsement in accordance with the Bills of Exchange Act.

ANSWER.—An endorsement by rubber stamp, if put on with the payee's authority, is valid, and under Section 35, Sub-Section 2 of the Bills of Exchange Act, the endorsee has the right to sue your bank for payment.

A guarantee by the depositing bank is not asked for in Montreal, and is not, we consider, a legal necessity.

### *Cancellation of Acceptance.*

QUESTION 561.—We receive a time draft for collection, the draft is accepted in the morning and in the afternoon the drawee comes to the Bank and asks to be permitted to erase his acceptance, saying that his bookkeeper had forgotten a credit entry which he had just found out, and consequently does not owe the amount. The draft is protestable if not accepted.

ANSWER.—The accepting bank should never allow an acceptor to cancel his acceptance.

### *A Curious Case.*

QUESTION 562.—A draft, in duplicate, is purchased from a bank in Canada, by John Smith payable to himself and drawn upon its own Branch in a United States city. Payee is murdered in United States territory, and leaves no will; on his person is found the original, not endorsed, which is subsequently presented at the Branch on which it is drawn, endorsed by an Administrator, duly appointed by a United States judge. Meanwhile letters of administration have been granted



by a Canadian judge to deceased's brother, his heir and next of kin, who holds the duplicate. At his request the issuing branch stopped payment by telegraph, and on presentation of the original it was refused.

The case stands thus:—The United States Administrator has the original; the Canadian the duplicate; the bank the money. Suits are threatened against the bank at both its United States and Canadian branches by the respective Administrators. Is the money, represented by the original and duplicate draft, subject to United States or Canadian jurisdiction? What would be the bank's best action to prevent the courts of both countries from giving judgment against it, thereby causing the amount to be paid twice over?

ANSWER.—Pay the money into a Canadian court.

### *A Wife's Endorsement.*

In the April number of this JOURNAL the following question and answer appeared:—

#### *Wife's Endorsement Invalid in Quebec.*

QUESTION 551.—A married woman holding property in her own right endorses a note as an accommodation endorser. Could a bank, having discounted the same for the promissor, collect from her? Would it be necessary for her husband to consent to her doing business in her own name, or would his signature be necessary on the note along with hers?

ANSWER.—In the Province of Quebec, under the circumstances stated, the woman's endorsement would simply be invalid,—a wise and vital remnant of French law that provides for the protection of women.

This question comes from Nova Scotia. In a later number the law of that province will be given.

As the law of Nova Scotia is almost the same as that of New Brunswick, the following opinion obtained from Mr. Fred R. Taylor, Barrister-at-law, St. John, N.B., will be of interest to all our readers:—

In reply to the following question: "A married woman holding property in her own right endorses a note as an accommodation indorser. Could a bank, having discounted same for the promissor, collect from her? Would it be necessary for her husband to consent to her doing business in her own name, or would his signature be necessary on the note along with hers?"

Although there is no decision by the New Brunswick Courts on this or on any analogous point there would seem to be no doubt that in this Province the bank could collect from the married woman.

As to the second question the consent of her husband to her doing business in her own name is not required by the New Brunswick Married Woman's Property Act, 1895, and would be immaterial. His signature to the note would not in any way affect the wife's liability out of her separate estate.

Of course at Common Law the contract of a married woman would be void. Certain relief could be obtained in Equity, and this relief was further greatly enlarged by the various Married Women's Property Acts. The provisions of the New Brunswick "Married Women's Property Act, 1895," 58 Victoria, Cap. 24, relating to the power of married women to contract, are as follows:—

Sec. 3, sub-sec. 2. "A married woman shall be capable of entering into and rendering herself liable in respect of and to the extent of her separate property on any contract, and of suing and being sued in all respects as if she were a feme sole.....and any damages or costs recovered against her in any such action or proceeding shall be payable out of her separate property and not otherwise."

This is practically the same as the similar Nova Scotia Statute, Revised Statutes Nova Scotia, Cap. 112, Sec. 13. "A married woman shall be capable in all respects as if she were a feme sole.

a. Of entering into any contract and of making herself liable upon such contract in respect of her separate property to the extent of such property, and

b. Of suing or being sued in contract, tort or otherwise."

It is almost word for word with the English Married Women's Property Act, 1882, Sec. 1, Sub-sec. 2. "A married woman shall be capable of entering into and rendering herself liable in respect of and to the extent of her separate property on any contract, and of suing and being sued either in contract or in tort or otherwise, in all respects as if she were a feme sole."

The English Courts held that the act conferred no general capability to contract on the married woman but merely a capability to contract "in respect of and to the extent of her separate property." *Palliser v. Gurney*, 19 Q. B. D. 519. To remedy the limitation of the liability on contracts, which under the adopted interpretation seemed capable of being carried to almost absurd results the act was amended by 56 and 57 Victoria, Cap. 63. Subsec. 3, of Sec. 3 of the New Brunswick act similarly broadens the effect of Subsec. 2. "Every contract entered into by a married woman otherwise than as agent.

a. Shall be deemed to be a contract entered into by her in respect to and to bind her separate property, whether she is or is not in fact possessed of or entitled to any separate property at the time when she entered into such contract;

b. Shall bind all separate property which she may at that time or thereafter be possessed of or entitled to.

Since a married woman is under the New Brunswick act liable for her contracts to the extent of her separate property (where she has not contracted as agent being deemed to have contracted in respect to her separate property) it would seem that her endorsement of a note, though for accommodation, would render her separate property liable. There are decisions under the somewhat similar New York Statute to the effect that a married woman is liable on a note made by her for her husband's accommodation.:

*Bowery National Bank vs. Sniffen*, 54 Hun. 394.

*Queen's County Bank vs. Leavett*, 56 Hun. 426.

The Ontario courts have also reached a like result on this point under a statute much resembling as to the question of contracts the New Brunswick Act.

*Consolidated Bank of Canada vs. Henderson*, 29 U. C., C. P. 519.

There seems to be no English decision on this matter. That in the case put in the question the married woman was a party to the note as endorser and not as maker would not affect her liability. The strong-

est contention against the liability of the married woman in the present case would be that the fact that she was an endorser would show that the contract was not "in respect to her separate property" but Sub-sec. 3 of Sec. 3 clearly disposes of any effect that contention might otherwise have.

Taking into consideration the United States and Ontario decisions under similar statutes on analogous points and the tendency manifested by the New Brunswick courts in all cases in which the Act has been passed upon to interpret it broadly there would seem to be no doubt of the married woman's liability under the above circumstances, in this province.

If the wisdom of the French law be admitted, what is to be said of the Statutes of the Maritime Provinces?

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At the annual meeting of Winnipeg Sub-section held on 6th June Mr. J. B. Monk, Manager of the Bank of Ottawa, and Mr. N. G. Leslie, Manager of the Imperial Bank, were respectively elected Chairman and Secretary of the Winnipeg Sub-section Canadian Bankers' Association.

## CORRESPONDENCE.

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*To the Editor:*

DEAR SIR.—I think the editorial in the April number of the JOURNAL displayed bad taste and likely to discourage those who have always made use of the Questions Column.

AN ASSOCIATE.

Consider the consequence of continued silence in this matter—a worried editor and a fretful Journal Questions Committee—and you will withdraw what you have written. You will observe that I reiterate my opinion of some enquirers in the editorial column. Lest they forget, etc.

EDITOR.

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## CAPE BRETON SCENERY.

*Dear Mr. Editor:*

I read the description in the last number of the JOURNAL of the scenery of Cape Breton with much interest, and would be glad if you will tell me where I can get some photographs of places in the Maritime Provinces worth seeing when on my vacation next month.

ONTARIO.

The Intercolonial Railway has just issued a booklet filled with excellent reproductions of the splendid collection of views in Nova Scotia, New Brunswick, Cape Breton, and Prince Edward Island recently exhibited in the principal cities of Canada. Send to the nearest representative of this railroad for what you require.

EDITOR.

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A. H. Mackenzie.	F. W. West.
W. C. G. King.	W. H. Lugsdin.
H. J. Pangman.	Edmund Cowdry.
D. W. Leyman.	L. H. Dampier.
C. R. Armstrong.	J. A. Kemp.
H. B. Parsons.	H. R. O'Reilly.
Chas. Miller.	G. W. Morley.
A. Scott.	E. M. Playter.
J. M. Hedley.	H. W. Fitton.
H. E. Sewell.	John C. Hemp.
J. McE. Murray.	C. D. MacIntosh.
G. W. McKee.	J. M. Christie.

CANADIAN BANK OF COMMERCE—*Continued*

F. H. Mathewson.	Jas. Byrdon.
W. J. Robertson.	G. E. Parkes.
V. C. Browne.	B. J. Carnegie.
A. R. Phipps.	A. W. Ridout.
T. S. Harrison.	A. Robarts.
B. E. Walker.	M. McLean.
G. C. Pemberton.	R. J. Montgomery.
J. E. H. Laidlaw.	M. D. Hamilton.
Norman Campbell.	G. Laird.
J. L. Barnum.	W. H. Durnford.
J. H. Carter.	A. H. Ireland.
H. C. Battersby.	L. F. Cross.
Wm. Maynard.	J. Carmichael.
W. J. Savage.	R. MacPherson.
W. Manson.	J. P. Aitken.
D. A. Cameron.	Hugh Polson.
J. H. Carnegie.	W. A. Cooke.
H. E. P. Jemmett.	H. G. Mathewson.
R. A. Rumsey.	R. T. Mussen.
D. M. Sanson.	W. C. T. Morson.
W. L. Gibson.	D. H. Charles.
A. E. Marks.	A. Trigge.
G. V. Howard.	J. A. Smith.
J. E. Pangman.	A. Brotherhood.
John Adair.	J. J. Acres.
E. A. Fox.	G. G. Bourne.
F. O. Cross.	C. A. Mercer.
G. Patterson.	R. H. Edwards.
W. Hogg.	J. M. Duff.
G. deC. O'Grady.	C. M. Stork.
F. C. G. Minty.	A. W. White.
A. G. Gerchere.	John Aird.
J. E. Wetherell.	Wm. Murray.
T. A. Chisholm.	E. H. Bird.
W. Hilburn.	E. A. Wylde.
F. S. Jamieson.	H. W. Trenholm.
J. G. Mullen.	Edgar Jarvis.
D. Macgillivray.	G. A. Holland.
Joseph Murray.	H. J. Grasett.
R. G. W. Connolly.	F. C. Malpas.
F. W. Logan.	W. H. Switzer.
D. B. Dewar.	E. P. Gower.
R. G. Williams.	H. H. Morris.
J. F. Duncan.	K. V. Munro.

CANADIAN BANK OF COMMERCE—*Continued*

G. S. Holt.	H. C. Secord.
D. H. Downie.	E. M. Saunders.
P. A. Crump.	W. C. Johnston.
A. M. Brown.	E. S. Hodgins.
Hubert Haines.	M. Morris.
A. H. Plummer.	A. E. Currie.
C. H. Foster.	G. W. Wedd.
C. J. Noble.	J. L. Hubbell.
H. R. Davidson.	J. L. Buchan.
W. A. Kilgour.	J. M. Fraser.
Robt. Gill.	Geo. Williams.
A. F. Hamilton.	H. L. Rothwell.
R. T. Brymner.	W. C. Hallamore.
F. B. Francis.	H. V. F. Jones.
T. M. Turnbull.	Edward R. Dewart.
John Kay.	E. Andrews.
J. M. Stewart.	H. C. Cowdry.
C. W. Rowley.	H. C. Rae.
C. Dickinson.	G. V. Holt.
W. P. Kirkpatrick.	J. G. Hunt.
H. L. Wethey.	Chas. D. Nevill.
F. W. Hutchinson.	N. E. Miller.
G. M. Gibbs.	C. A. Anderson.
Norman F. Lewis.	E. de W. Fenwick.
H. B. Walker.	Rupert. P. Buchanan.
F. S. Crawford.	L. P. Wood.
H. M. Lay.	Godfrey Darling.
J. S. Munro.	R. A. Rumsey.
R. C. Jennings.	Malcolm Nicholson.
F. C. Wright.	James P. Smith.
J. A. Motherwell.	Archibald Kains.

## ROYAL BANK OF CANADA

J. F. Blagdon.	A. G. Bishop.
C. S. Hoare.	D. C. Rae.
R. L. McCormick.	A. E. Brock.
J. H. Abbot.	M. Dicnie.
E. L. Pease.	C. E. Mackenzie.
J. W. Fulton.	W. B. Meynell.
R. Gomery.	W. F. Mitchell.
F. H. Arnaud.	John McIsaac.
R. B. Richardson.	E. A. McCurdy.
H. F. Woodburn.	S. L. T. Harrison.
H. E. Girvan.	F. L. Murray.
R. W. Forrester.	W. F. Brock.

ROYAL BANK OF CANADA—*Continued*

T. G. A. Parkes.	G. H. Mackenzie.
R. V. Dimock.	H. A. Porter.
J. E. Burchell.	R. E. Smith.
W. H. Crowdy.	P. G. Hall.
A. Bowser.	A. B. Wetherby.
F. McDougall.	G. M. McCallum.
E. R. Mowbray.	Percy M. Jost.
F. J. Sherman.	W. Dickson.
Geo. Kydd.	R. N. Herman.
J. Ferguson.	C. E. Harris.
A. A. Stearns.	J. W. Banfield.
C. E. Neill.	G. A. Spink.
E. A. Earle.	M. W. Wilson.
F. T. Walker.	O. A. Hornsby.
F. McMain.	H. H. McDougall.
H. K. Wright.	W. Kirkpatrick.
H. W. Freeze.	J. M. Aitken.
G. Taylor.	Donald Kemp.
S. von Cramer.	R. S. Currie.
W. B. Torrance.	J. E. Landry.
A. Gordon Tait.	H. J. Gardiner.
C. A. Crosbie.	

## DOMINION BANK

C. A. Bogert.	E. C. Bowker.
W. E. Browne.	M. E. Holden.
T. G. Brough.	W. E. Carswell.
H. J. Bethune.	A. A. Atkinson.
E. A. Begg.	F. H. Nasmith.
R. Ross.	L. Cassils.
S. Sloane.	S. L. Jones.
C. E. Thomas.	W. C. Armstrong.
W. Walker.	W. S. Gray.
A. K. Pringle.	D. L. Rill.
W. A. Pearce.	W. T. Gwyn.
Chas. Lee.	G. Baldwin.
R. Heron.	Dudley Dawson.
C. L. Ross.	Thos. Hill.
Arthur Pepler.	A. R. Sampson.
John C. Wedd.	C. O. Fellowes.
M. S. Bogert.	W. K. Pearce.
N. Evans.	J. M. McIntosh.
A. K. Macdougall.	Chas. Walker.
D. S. Hepburn.	F. G. Williamson.



DOMINION BANK—*Continued*

G. Macintyre.	T. W. Butler.
J. Hayden Horsey.	J. B. Robertson.
H. H. Duncan.	

## MERCHANTS BANK OF P. E. I.

W. R. McKie.	J. F. McMillan.
J. H. McQuaid.	

## HALIFAX BANKING COMPANY

H. N. Wallace.	J. A. Russell.
G. A. Thompson.	H. H. Archibald.
R. H. Metzler.	Jno. M. Brough.
E. G. Shannon.	R. P. Morrison.
Geo. Lyde.	F. B. McCurdy.
F. W. deMille.	A. S. Townshend.
G. W. Sterns.	D. T. Forbes.
T. S. Baird.	C. Hensley.
W. H. Harrison.	A. Allan.
J. Mooreman.	Geo. Upham.
Jas. G. Taylor.	J. H. Morrison.
B. De Veber.	T. W. Magee.

## BANK OF HAMILTON

W. Russell.	J. Turnbull.
H. G. Rutland.	C. Bartlett.
J. H. Dobbie.	Jno. Sproat.
J. Butterfield.	B. O. Hooper.
W. R. Birley.	H. A. Gray.
J. K. Cross.	T. E. Haines.
B. Forsayeth.	Jos. McNeel.
E. Buchan.	C. H. Bartlett.
H. H. O'Reilly.	F. M. Robinson.
R. B. Davis.	E. K. Niblett.
J. I. Hobson.	C. A. Patterson.
J. F. Harper.	W. H. Burns.
L. E. Wedd.	F. J. Gosling.
H. M. Watson.	M. C. Hart.
A. G. H. Luxton.	A. W. Ridout.
E. A. Campbell.	K. F. Dewar.
J. S. Gordon.	J. P. Bell.
J. H. Stewart.	H. D. McLaren.
H. P. Wanzer.	A. H. Skey.
F. W. Pottinger.	W. J. H. Murison.
R. McLeod.	

## STANDARD BANK OF CANADA

J. K. Brodie.	W. A. Glenney.
W. C. Boddy.	F. H. Gray.
Geo. P. Reid.	W. A. Tripp.
W. T. Shannon.	T. W. Naylor.
J. A. Stewart.	L. E. Hand.
G. P. Scholfield.	B. R. Creighton.
E. L. Williams.	C. Larke.
J. Kelly.	

## BANQUE D'HOCHELAGA

H. N. Boire.	R. Bickerdike.
J. Hamel.	J. Trepanier.
T. E. Surgeon.	M. J. A. Prendergast.
F. Leduc.	E. A. Bertrand.
H. Baumier.	G. A. Giroux.
C. A. Sylvester.	D. McInnes.

## BANQUE DE ST. HYACINTHE

W. A. Moreau.	J. E. Campbell.
G. C. Dessaulles.	S. Fortier.

## BANK OF OTTAWA

R. B. Kessen.	G. Jarvis.
J. H. Mitchell.	R. Patterson.
W. R. Bergne.	G. Wainwright.
W. Moles.	G. R. Peden.
J. D. Stewart.	W. J. Christie.
Chas. Greentree.	C. K. Lough.
C. B. Graham.	D. M. Finnie.
A. R. Fraser.	L. C. Owen.
D. Macnamara.	W. Duthie.
James Martin.	J. H. Neeve.
B. A. Herring.	Geo. H. Ross.
D. Robertson.	W. B. Snow.
Hector Fraser.	R. B. Howard.
P. B. Taylor.	C. R. Kavanagh.
Francis Cole.	J. D. Mather.
W. H. Montgomery.	G. Vernon Smith.
John Hood.	J. H. Savary.
F. B. Hopkirk.	J. B. Monk.
S. L. Forrest.	H. P. Pennock.
A. L. Saunders.	A. H. Logan.
A. H. Dickins.	W. H. Dickinson.
A. J. Muckleston.	F. S. Shannon.
J. E. Carriere.	N. W. Morton.
Geo. Burn.	T. B. Sharpe.

BANK OF OTTAWA—*Continued*

D. A. Small.	P. H. Kane.
Chas. G. Pennock.	John A. Bangs.
S. A. Codd.	H. L. Hastie.
J. L. Nevison.	W. Wilson Forrest.
H. C Elliott.	

## IMPERIAL BANK OF CANADA

G. C. Browne.	Geo. C. Easton.
J. D. Hood.	M. A. Richardson.
D. R. Wilkie.	William Phillip.
E. Hay.	William Cook.
W. Moffatt.	S. D. Raymond.
O. F. Rice.	G. G. LeMesurier.
J. M. Mackenzie.	J. H. Stidston.
G. D. Boulton.	Norman Paterson.
J. H. Eddis.	D. F. Osler.
R. S. Clarke.	A. E. Foster.
J. D. Lewis.	W. R. Scott.
W. Gordon.	H. T. Watt.
R. S. Galbraith.	P. Bidwell.
A. F. Robertson.	W. R. Grubbe.
S. R. Saunders.	J. F. Bennett.
H. F. Lownsbrough.	R. Lyon.
J. M. Weymss.	E. K. Boulton.
Geo. Wilson.	E. J. Kay.
R. G. O. Thomson.	W. H. Collard.
Chas. Love.	C. H. S. Clarke.
M. A. Anderson.	N. G. Leslie.
C. H. Wethey.	A. H. Murray.
A. R. Martin.	W. Bell.
A. G. Lefroy.	W. H. Thompson.
A. R. Capreol.	J. A. Boyle.
A. J. Goodall.	A. R. B. Hearn.
H. G. Wickens.	R. Arkell.
J. F. Scarth.	H. E. Secord.
J. A. Langmuir.	A. L. Nunns.
A. P. Nasmith.	F. H. Marsh.
A. Creelman.	A. Jukes.
E. N. Bate.	M. A. Gilbert.
W. T. Henderson.	A. R. Phipps.
R. G. Wilkinson.	A. B. McCleneghan.
W. A. Weir.	H. M. Arnaud.
C. W. Reade.	A. R. Green.
Chas. White.	T. S. Gibb.

IMPERIAL BANK OF CANADA—*Continued*

J. M. Lay.	G. R. Kirkpatrick.
Jas. Pinkham.	D. G. Roy.
W. Hebblewhite.	E. Chadwick.
J. H. Wilson.	F. J. Peterson.
J. H. Benson.	E. H. Anderson.
H. H. Morgan.	W. R. Thomson.
W. Macdonald.	F. T. Cole.
J. M. Kains.	G. E. Spragge.
G. C. Foster.	J. R. Benson.
J. A. Foster.	R. J. Dashford.
E. C. Robarts.	W. A. Wright.
J. A. Richardson.	A. R. McDonald.
M. Morris.	B. E. Young.
F. M. Craig.	

## WESTERN BANK OF CANADA

Allan Steckle.	Fred. Biette.
H. J. Craig.	J. B. Jennings.
C. J. Fox.	Rev. Robt. H. Warden, D.D.

## TRADERS' BANK OF CANADA

R. H. Smart.	A. F. Jones.
W. F. Smith.	H. A. Mallory.
J. A. M. Alley.	W. J. Gilleland.
M. C. Chalmers.	C. E. Rumsey.
H. S. Strathy.	A. B. Gowdy.
Norman Ross.	John Pool.
W. Winlow.	A. B. Ord.
H. P. McMahon.	Geo. Malr.
F. B. Bennett.	F. W. Bain.
E. S. Jackson.	D. D. Ratz.
S. Strathy.	R. P. Davidson.
A. H. Ward.	A. R. Heiter.
N. Hillary.	

## SOVEREIGN BANK OF CANADA

C. R. Cumberland.	R. A. Williams.
R. H. Fulton.	W. M. Chandler.
W. G. Browne.	D. B. Crombie.
B. Garrett.	B. Bamfton.
A. W. Clarke.	Frank E. Karn.
L. P. Snyder.	D. M. Stewart.
C. H. Thornton.	W. J. Hill.
C. H. Lloyd.	W. J. Stark.

SOVEREIGN BANK OF CANADA—*Continued*

Percy Gomery.	Geoffrey St. Aubyn.
Henry Sterns.	Fred. A. Cameraire.
E. D. S. Strange.	L. S. Kelly.
L. G. T. Lynch.	

## METROPOLITAN BANK

R. C. Babbitt.	H. A. Colson.
F. A. Sutherland.	A. Langtry.
T. S. Chatterton.	N. J. Morden.













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The Canadian banker

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